

## AN ORDINANCE

**ADOPTING AND ENACTING** a new Code for Marietta, Georgia; establishing the same; providing for the repeal of certain ordinances not included therein, except as herein expressly provided; providing for the manner of amending such code; providing when this ordinance shall become effective; providing certain penalties; and for other purposes.

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**NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF MARIETTA, GEORGIA THAT:** the document entitled the "Code of Marietta, Georgia" is hereby amended as follows:

**Section 1:** The document entitled the "Code of Marietta, Georgia," a copy whereof accompanies this ordinance and is incorporated herein and made a part hereof, is hereby adopted and shall be treated and considered as a new and original comprehensive ordinance.

**Section 2:** All ordinances and resolutions of a general and permanent nature of Marietta, Georgia, enacted on final passage on or before June 12, 1996, and not in the code or recognized and continued in force by reference therein are hereby repealed from and after the effective date of this ordinance, except as hereinafter provided.

**Section 3:** The repeal provided for in Section 2 hereof shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this ordinance; nor shall this repeal affect any ordinance or resolution of the city promising or guaranteeing the payment of money by or to the city, or authorizing the issuance of any bonds of the city, or any evidence of the city's indebtedness, or any contract or obligation assumed by the city; nor shall this repeal affect any rights or franchise granted by any ordinance or resolution of the city to any person, firm or corporation; nor shall this repeal affect any ordinance or resolution dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way in the city; nor shall this repeal affect the present annual appropriation of the city, nor shall this repeal affect any ordinance or resolution levying or imposing charges, fees, or taxes now due or accrued; nor shall this repeal be construed to

revive any ordinance or resolution or part thereof that has been repealed by a subsequent ordinance or resolution which is repealed by this ordinance.

**Section 4.** The provisions appearing in the code, so far as they are the same as provisions of ordinances and resolutions existing at the time of the effective date of this code are intended and shall be considered as continuations thereof and not as new enactments.

**Section 5.** Any and all additions or amendments to the code, when passed in such form as to indicate the intention of the city council to make the same a part thereof, shall be deemed to be incorporated into the code so that reference to the "Code of Marietta, Georgia," shall be understood and intended to include such additions and amendments.

**Section 6.** A copy of the code shall be kept on file in the office of the city clerk, and preserved in loose-leaf form, or in such other form as the city clerk may consider most expedient. It shall be the express duty of the city clerk or someone authorized by the city clerk, to insert in their designated places all amendments, ordinances or resolutions which indicate the intention of the city council to make those provisions a part of the code, when those provisions have been reprinted in page form, and to extract from the code all provisions which may be from time to time repealed by the city council. A copy of the code shall be available for all persons desiring to examine it and shall be considered the official Code of Marietta, Georgia.

**Section 7.** As pages of the code are replaced because the matter contained on them shall have been repealed, amended, or otherwise shall have been superseded or rendered obsolete or inoperative, the city clerk shall retain copies of the pages of the code so superseded, rendered obsolete or otherwise rendered inoperative in a file so that the former provisions of the code may be readily available and easily found. The purpose of this section is to permit anyone desiring to do so to ascertain the precise status of any sections of the code as of any given date.

**Section 8.** In case of the amendment of any section of the code for which a penalty is not provided, the general penalty as provided in the city charter of the code shall apply to the section as amended; or in case such amendment contains provisions for which a penalty, other than the aforementioned general penalty, is provided in another section in the same chapter, the penalty so provided in such section shall be held to relate to the section so amended, unless such penalty is specifically repealed herein.

**Section 9.** It shall be unlawful for any person, firm or corporation to change or amend by additions or deletions, any part or portion of the code, or to insert or delete pages or portions thereof, or to alter or tamper with the code in any manner whatsoever which may cause the law of Marietta, Georgia to be misrepresented thereby.

**Section 10:** It is hereby declared to be the intention of this ordinance that its sections, paragraphs, sentences, clauses and phrases are severable, and if any section, paragraph, sentence, clause or phrase of this ordinance is declared unconstitutional or invalid, it shall not affect any of the remaining sections, paragraphs, sentences, clauses, or phrases of this Ordinance.

**Section 11:** All ordinance or part of ordinances in conflict with this ordinance are hereby repealed.

**Section 12:** This ordinance shall become effective on June 12, 1996.

DATE: June 12, 1996

APPROVED: \_\_\_\_\_

Ansley L. Meaders  
Ansley L. Meaders, Mayor

ATTEST: \_\_\_\_\_

Sheila R. Hill  
Sheila R. Hill, CMC  
City Clerk

Approved as to form: \_\_\_\_\_

Douglas R. Haynie  
Douglas R. Haynie,  
City Attorney

**Chapter 4-12 INSURANCE AND RETIREMENT**

**Article 4-12-2 General Regulations**

**4-12-2-010 Mandatory retirement.**

(Reserved)

(Code 1978, Sec. 4-3001)

**4-12-2-020 Old age and survivors, insurance terminated; supplemental plan adopted.**

A. The City of Marietta does hereby terminate and withdraw from the Employees Retirement System of Georgia (known as social security).

B. The Pension Board of the City of Marietta, Georgia, created by ordinance of the mayor and council shall hereby assume the function of trustees of a supplemental pension retirement plan of the City of Marietta.

C. The pension board is hereby directed to safeguard the funds of any participating employee of the City of Marietta, Georgia, in all pension, retirement and disability benefits to be provided by the supplemental pension retirement plan.

D. The mayor is hereby authorized and directed to execute any and all documents and other instruments necessary to terminate the relationship of the City of Marietta with the Employees Retirement System of Georgia.

E. Beginning January 1, 1981, the City of Marietta shall pay 6.13 percent of the salary of regular full-time employees into the supplemental pension retirement plan. The amount so paid shall be immediately vested in each employee's behalf. No employee may be eligible for participation in said supplemental pension retirement plan until the employee has completed one (1) continuous year of service. The City of Marietta shall pay into the plan 6.13 percent of all the salary of appointed employees up to the maximum salary payable to regular employees as exists in the personnel pay plan ordinance. Funds accumulated under this plan shall be paid to employees only upon retirement, death, disability, or termination of employment. The Pension Board of the City of Marietta, Georgia, created by ordinance of the mayor and council shall represent the city/BLW in the administration of the plan hereby established, unless otherwise designated by council.

F. The city clerk is directed to attest any and all instruments under the seal of the city which the mayor is authorized and directed to execute by this section.  
(Code 1978, Sec. 4-3002; Ord. No. 3741, 12/30/80)

**4-12-2-030 Payment of cost of health, life and accidental death and dismemberment insurance for employees.**

A. Employees eligible for health, life and accidental death and dismemberment insurance benefits shall include:

1. all full-time employees, defined as those individuals who work a minimum of 30 hours per week, including classified and appointed personnel; and
2. the mayor and city council members.

B. The City of Marietta shall pay 100% of the calculated premium cost of the health, life, and accidental death and dismemberment insurance on all eligible employees as defined above.

C. If an eligible employee chooses dependent health insurance coverage, the City of Marietta shall pay 80% of the calculated premium cost for dependent coverage of any city sponsored health insurance plan that the employee selects.

D. These contribution percentages may change based upon the financial ability of the city. Any change in contribution rate will be made in ordinance form.

(Code 1978, Sec. 4-3003; Motion of 1/11/69; Code 1961, Sec. 2-17.3; Ord. No. 4817, 8/8/90)

**4-12-2-040 Retiree health insurance.**

A. All employees hired after passage of this section may continue their health insurance coverage after retirement from continuous, active service, but the retired employee must pay one hundred percent (100%) of retiree and dependent calculated premium cost.

B. No current terminated vested retiree nor any employee who will subsequently receive a terminated vested retirement benefit is eligible to receive health insurance benefits from the city. (Code 1978, Sec. 4-3003.1; Ord. No. 4928, 8/14/91)

**4-12-2-050 Retirement plan; JMERS coverage terminated.**

A. The City of Marietta does hereby terminate and withdraw from the pension, retirement and disability payment plan known as the Joint Municipal Employees Retirement System.

B. The Pension Board of the City of Marietta, Georgia, created by ordinance of the mayor and council shall hereby assume the function of trustees of a pension retirement and disability plan of the City of Marietta, and the Pension Board of the City of Marietta, Georgia, is authorized to receive all trust funds held on behalf of the City of Marietta from the Joint Municipal Employees Retirement System.

C. The vested retirement rights and benefits of employees, participants, retirees and beneficiaries eligible under any superseded pension or retirement ordinance shall not be impaired. The pension board is hereby directed to safeguard the funds of any participating employee of the City of Marietta, Georgia, in all pension, retirement and disability benefits previously provided by the Joint Municipal Employees Retirement System.

D. The mayor is hereby authorized and directed to execute any and all documents and other instruments necessary to terminate the relationship of the City of Marietta with the Joint Municipal Employees Retirement System. The mayor is further authorized and directed to execute any and all documents and instruments which may be necessary to transfer any funds held on behalf of the City of Marietta by the Joint Municipal Employees Retirement System to the Pension Board of the City of Marietta, where such funds shall be held in trust and reinvested in a successor pension, retirement and disability plan.

E. The clerk is directed to attest any and all instruments under the seal of the city which the mayor is authorized and directed to execute by this section. (Code 1978, Sec. 4-3004; Ord. No. 3753, 2/11/81)

**4-12-2-060 Same; adoption of new plan.**

A. The rights and obligations of persons who retired prior to the effective date of the plan established in subsection (a) herein are fixed and shall be governed by the retirement or pension plan as it existed and was in effect at the time of such retirement and the provisions of any retirement plan in effect prior to the effective date of this section shall be continued in effect for the purpose of payment of pensions to pensioners retired prior to such effective date and their beneficiaries, if any. The retirement benefits of any employee in the active employ of the city on the adoption date of this section, who immediately prior thereto shall have been included in any superseded retirement or pension plan with the city and who maintains his eligibility as a participant under such superseded plan, and who declines to waive his accrued pension benefits under the retirement plan that was in existence and which has been expressly superseded by this section or any other ordinance of the City of Marietta shall retain any entitlement to benefits originally provided under the superseded plan upon his actual termination of employment and/or attainment of his retirement date in accordance with the provisions of the superseded plan. Such benefits shall be based upon the provisions of the superseded plan, which except as herein provided shall be continued in effect for the purpose of the payment of pensions to the employees declining to waive their pension benefits in favor of the benefits specified in the plan established by this section. Benefits afforded under the superseded plan to such employees will be determined in accordance with said superseded plan.

B. The city clerk is directed to attest any and all instruments under the seal of the city which the mayor is authorized and directed to execute by this section.

(Code 1978, Sec. 4-3005; Ord. No. 3752, 2/11/81)

**4-12-2-070 Adoption of consolidated plan.**

A. The Consolidated Retirement Plan for the Employees of the City of Marietta, Georgia, a copy of which is attached hereto as Exhibit "B" and by reference made a part hereof, is hereby adopted for the employees of the City of Marietta, Georgia, on the following terms and conditions:

1. Each employee hired after March 1, 1987 (the effective date of this consolidated retirement plan) shall be eligible to participate in the consolidated retirement plan as provided for therein. Each new employee hired after March 1, 1987 shall have no right whatsoever to participate or become eligible to participate in the retirement plan adopted by Ordinance No. 4022, section 4-12-2-060 of the city code.

2. Each employee that is employed with the City of Marietta, Georgia on March 1, 1987 shall have the right to either remain with the retirement plan adopted by Ordinance No. 4022 or elect to participate in the consolidated retirement plan adopted by this section. Each employee that elects to participate in this consolidated retirement plan shall make said election in writing and shall waive and relinquish any and all rights to participate or receive any benefits from the retirement plan adopted by Ordinance No. 4022 as it was originally enacted or any benefits adopted by any amendments to Ordinance No. 4022. The period to make this election shall be for a period of 90 days commencing on March 1, 1987 and ending on May 29, 1987. Any employee that has not elected to participate in the consolidated retirement plan by May 29, 1987 shall automatically remain a participant in the retirement plan adopted by Ordinance No. 4022 and shall have no right whatsoever to participate or become eligible to participate in the consolidated retirement plan adopted by this section.

B. The rights and obligations under the retirement plan approved September 20, 1973, as amended, with respect to persons whose employment with the city was terminated for any reason whatsoever prior to the effective date of this section are fixed and shall be governed by such retirement plan as it existed and was in effect at the time of such termination.

(Code 1978, Sec. 4-3006; Ord. No. 4532, 2/11/87)

**Article 4-12-4 EXHIBIT A TO CHAPTER 4-12**

**4-12-4-010 Exhibit A to Chapter 4-12**

**Ordinance No: 4022**

*An Ordinance Adopting a new Retirement Plan for the employees of the City of Marietta, Georgia.*

*Now, Therefore, Be It Hereby Ordained by the Mayor and Council of the City of Marietta, Georgia, That:*

Section 1: The Retirement Plan for the City of Marietta, Georgia, a copy of which is attached hereto and by reference made a part hereof is hereby adopted for the employees of the City of Marietta, Georgia.

Section 2: All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed, except as provided in Section 3.

Section 3: The rights and obligations under the Retirement Plan approved September 20, 1973, as amended, with respect to persons whose employment with the City was terminated for any reason whatsoever prior to the effective date of this Ordinance are fixed and shall be governed by such Retirement Plan as it existed and was in effect at the time of such termination.

Section 4: The effective date of this Ordinance shall be January 1, 1984.

DATE: February 8, 1984

APPROVED:

/s/

Mayor and Council

ATTEST:

/s/ Barbara M. Goscha  
City Clerk

Shall mean the board appointed by the city on this ordinance to represent the city in the administration of the plan hereby established.

**Section 8. Effective date of the plan:**

Shall mean November 1, 1973.

**Section 9. Enrollment date:**

Shall mean the date that an eligible employee or an elected or appointed member of the governing authority becomes a participant under this plan. Said date will be established by the pension board on a form provided for that purpose.

**Section 10. Employee:**

Shall mean any person who is regularly employed in the services of the city, Marietta Board of Lights and Water, or any person who is an elected or appointed member of the governing authority.

**Section 11. New employee:**

Shall mean any employee regularly employed in the services of the city after the effective date of the plan except as otherwise provided for in article III, section 3.

**Section 12. Full-time employee:**

Shall mean an employee who works at least thirty (30) hours per week.

**Section 13. Eligible employee:**

Shall mean any full-time employee who comes within the provisions of article III, section 2, and who is not an ineligible employee as defined herein.

**Section 14. Ineligible employee:**

Shall mean any employee in the class or classes enumerated in article III, section 1.

**Section 15. Contributions:**

Shall mean payments made to the provider to provide the benefits specified in the plan.

**Section 16. Interest:**

Shall mean a pro rata share of any and all interest, dividends, and/or capital gains or losses earned on the invested or reinvested funds of the trust fund.

**Section 17. Participant or participating employee:**

Shall mean any eligible employee or elected or appointed member of the governing authority who complies with the requirements of article III, section 4.



**Section 18. Retired participant:**

Shall mean any participant who has qualified for retirement under any provision of the plan and is entitled to receive any pension provided under the plan.

**Section 19. Terminated participant:**

Shall mean employees withdrawn from service who have vested benefits under any provision of the plan.

**Section 20. Service:**

Shall mean regular service rendered as an employee of the city. Service includes absence from active employment with the city under conditions which are not treated by it as a termination of employment. However, service shall not include accrued but unused annual leave of the employee. Service also means any tenure of elective office held by an elected or appointed member of the governing authority provided that such tenure of elective office does not include any calendar period during which any elected or appointed member of the governing authority is also in the regular service of the city as a full-time employee.

**Section 21. Past service:**

Shall mean the number of years and complete months, determined by the employer to represent uninterrupted service of a participant in the employment of the city prior to his enrollment date. Past service shall also mean any tenure of elective office of an elected or appointed member of the governing authority who is on the effective date of this amendment serving as either an eligible employee or as an elected or appointed member of the governing authority or both. Otherwise, past service shall not include any tenure of elective office as an elected or appointed member of the governing authority.

**Section 22. Credited past service:**

Shall mean the number of years and complete months of past service creditable for the purpose of computing pensions hereunder as prescribed in article V, section 1b(1).

**Section 23. Credited future service:**

Shall mean the number of years and complete months, determined by the employer, to represent uninterrupted credited service of a participant from his enrollment date in the plan to the effective date of his retirement as prescribed in article V, section 1b(2).

**Section 24. Total credited service:**

Shall mean the sum of credited past service and credited future service, as defined herein, of a participant, but shall be limited to such maximum number of years, if any, as may be prescribed in article V, section 1b(3).

**Section 25. Earnings:**

Shall mean the total normal compensation paid to a full-time employee of the city for service rendered but shall exclude compensation for overtime, reimbursed expenses, and other unusual compensation. In all cases,

earnings shall include holiday and vacation pay and payments made by the city on behalf of an employee during period of authorized absence for illness and other reasons.

**Section 26. Annual earnings:**

Shall mean the earnings, as determined by the employer, which have been paid to a participant on account of service rendered during any consecutive twelve (12) calendar month period immediately preceding the anniversary of his retirement date. It shall be limited to such maximum amount, if any, as may be prescribed in article V, section 1b(5), of the plan.

**Section 27. Final average earnings:**

Shall mean the average annual earnings computed in accordance with the provisions of article V, section 1b(4), of the plan.

**Section 28. Retirement:**

Shall mean withdrawal from service with a retirement allowance granted under the provisions of the plan. The city may engage on a retainer or fee basis any person receiving benefits hereunder and such engagement will not terminate or suspend such benefits.

**Section 29. Normal retirement date:**

Shall mean the first day of the month coinciding with or next following the day a participant qualified for retirement as provided in article IV, section 2.

**Section 30. Early retirement date:**

Shall mean the first day of the month coinciding with or next following the day a participant qualified for retirement as provided in article IV, section 3.

**Section 31. Normal retirement age:**

Shall mean age fifty-five (55) for Level 1 employees and age sixty-five (65) for Level 2 employees as defined in article III, section 2.

**Section 32. Early retirement age:**

Shall mean age forty-five (45) for Level 1 employees and age fifty-five (55) for 2 employees as defined in article III, section 2.

**Section 33. Monthly retirement benefit:**

Shall mean the monthly pension as provided in article V or any death or termination benefit payable under the provisions of article VI.

**Section 34. Beneficiary:**

Shall mean the person designated by the participant from time to time in writing and on prescribed forms, to receive any death benefit. For purposes of this definition, "person" shall include only a natural person and shall not include a corporation, estate or other such entity. (Ord. No. 4485, 7/9/86, Sec. 1; Ord. No. 4500, 8/13/86, Sec. 1; Ord. No. 4653, 7/13/88, Sec. 1 (Exhibit A))

**Section 35. Beneficiary in retirement:**

Shall mean the person designated by the participant from time to time in writing and on prescribed forms, to receive any death benefit provided in article VII, section 1. (Ord. No. 4485, 7/9/86, Sec. 1; Ord. No. 4500, 8/13/86, Sec. 1; Ord. No. 4653, 7/13/88, Sec. 1 (Exhibit A))

**Section 36. Actuary:**

Shall mean an individual or firm appointed or approved by the pension board to perform actuarial calculations necessary in funding the plan.

**Section 37. Actuarial equivalent:**

Shall mean a benefit of equal value when computed at regular interest upon the basis of the mortality tables last adopted by the provider.

**Section 38. O.A.S.D.I.:**

Shall mean the federal old age, survivors, and disability insurance benefits under the Social Security Act and any amendments thereto.

**Section 39. Vesting, vested right, vested benefit:**

Shall mean the rights of a terminated participant as specified in article VII, sections 3 and 4, of the plan.

**Section 40. Covered compensation:**

Shall mean the covered compensation tables prepared by the provider or the actuary whichever is directed to do so by the pension board. The tables will be updated annually and will be based on data provided by O.A.S.D.I. For Level I participants, the table will have a built-in covered compensation factor that treats Level I participants as if they were born ten (10) years earlier than their actual birth date. (Ord. No. 4624, 3/9/88, Sec. 1)

**Section 41. Disability:**

Shall mean a physical or mental disability of a participant as defined under article VIII.

**Section 42. Disability retirement date:**

Shall mean the first day of the first calendar month in which a participant becomes entitled to receive disability benefits under article VIII. However, in no event shall said disability retirement date be earlier than one (1) calendar month following his termination of employment due to a disability.

**Section 43. Current average cost-of-living index figure:**

Shall mean, as of any date, the average of the August monthly Consumer Price Index figures, relative to the United States as a whole, most recently issued as of such date by the Bureau of Labor Statistics of the United States Department of Labor. Should the monthly Consumer Price Index be revised by the Bureau of Labor Statistics, it shall mean the average adjusted by the pension board, with the advice of the actuary of the plan, so as to give effect to such revision in an equitable manner.

**Section 44. Cost-of-living base figure:**

Shall mean the current average cost-of-living index figure of a participant as of his actual retirement date or any subsequent annual adjustment date. The cost-of-living base figure for beneficiaries receiving pensions shall be the current average cost-of-living index figure beginning on the annual adjustment date following such beneficiary's entitlement to a pension or any subsequent annual adjustment date.

**ARTICLE III**

**Eligibility, Qualification and Participation**

**Section 1. Ineligible classes of employees.**

The following classes of employees shall not become eligible for participation in the plan.

Class 1—Employees, other than elected and appointed members of the governing authority, who regularly work less than thirty (30) hours per week in the service of the city.

Class 2—Any person employed by the city to perform scientific, technical, engineering, accounting, legal or similar expert services in a consulting capacity.

Class 3—Any person employed for less than twelve (12) months in any year, or on a retainer or fee basis.

**Section 2. Eligible employees:**

The following employees that are not excluded by article III, section 1, shall qualify for participation by meeting the pertinent requirements set forth in article III, section 3.

Level 2—Permanent policemen and firemen and all other full-time employees, and elected and appointed members of the governing authority that are hired or commence service with the City of Marietta after the effective date of this ordinance shall be considered Level 2 employees for all purposes under the retirement plan. Any employees that were hired or commenced service with the City of Marietta prior to the effective date of this ordinance shall not be affected by this ordinance.

(Ord. No. 4522, 11/12/86, Sec. 1)

**Section 3. Qualifications for participation.**

A. Each employee, other than elected and appointed members of the governing authority, who is, on the effective date of the plan, regularly employed in the services of the city shall be qualified to apply for participation in the plan:

1. If he has completed one (1) year of continuous service on or prior to the effective date of the plan, or

2. On the first day of the month immediately following or coinciding with the date subsequent to the effective date of the plan that he completes one (1) year of continuous service provided that the period of service between the effective date of the plan and his enrollment date was continuous and uninterrupted.

B. Each new employee hired after the effective date of the plan shall be eligible to participate in the plan on the first day of the month immediately following or coinciding with the date he completes one (1) year of continuous service; provided, however, that he has not attained age sixty-one (61), or age fifty-one (51) if such employee is employed as a permanent policeman or fireman, whichever is applicable.

C. Any eligible employee whose employment terminates and who later resumes employment in an eligible employee level shall be considered a new employee as of his date of reemployment unless he meets one of the following conditions:

1. A former participant who is reemployed in an eligible employee level within one (1) year after termination of his employment with the city may resume participation on the first day of the month immediately following or coinciding with his reemployment, but the time he was absent shall not be taken into account for the purpose of calculating retirement or termination benefits under the plan.

2. A former participant who is reemployed in an eligible employee level after a period of involuntary service in the Armed Forces of the United States, and who meets the provisions of article III, section 4d, may resume participation on the first day of the month coinciding with or next following the month in which he is reemployed, but the time he was absent shall not be taken into account for the purpose of calculating retirement or termination benefits under the plan unless otherwise authorized by the governing authority.

3. A former participant who is reemployed in an eligible employee level after being on an authorized leave of absence and who meets the provisions of article III, section 4D, may resume participation on the first day of the month coinciding with or next following the month in which he is reemployed in accordance with the terms of the leave as approved by the governing authority.

D. Each elected or appointed member of the governing authority who holds an elected office of the city on the effective date of this amendment shall be qualified to apply for participation on such effective date. Each other elected or appointed member of the governing authority who holds an elective office of the city subsequent to the effective date of this amendment shall be qualified to apply for participation in the plan on the first day of the month immediately following or coinciding with the first date he occupies any elective office of the governing authority after the effective date of this amendment.

**Section 4. Participation.**

A. Each eligible employee (except any employee that is a participant or eligible to become a participant in the consolidated retirement plan adopted by Ordinance 4522), who meets the qualifications for participation as set forth in article III, section 3, shall become a participant in the plan on the first day of the month coinciding with or next following the date he completes the above mentioned qualifications for participation.

B. Participation in the plan shall not give any eligible employee the right to be retained in the employ of the city nor, upon dismissal, to have any right or interest in the trust fund other than is herein provided.

C. For other than elected and appointed members of the governing authority, participation shall be deemed to be automatically terminated by a quit, resignation or discharge, by lapse of recall rights after layoff, by ceasing to be an eligible employee as defined herein, or by failure to return to service as an eligible employee at the end of an approved leave of absence. Participation shall be deemed to be automatically terminated for an elected or appointed member of the governing authority upon vacation of elective office.

D. The governing authority shall determine the date of expiration of any leave of absence granted to a participant, other than an elected or appointed member of the governing authority, and if such participant has not returned to his regular employment as an eligible employee in accordance with such determination, his interest, if any, under the plan shall only be such as existed at the commencement of such leave of absence. If a leave of absence has been or is granted to a participant other than an elected or appointed member of the governing authority for the purpose of involuntary service in the Armed Forces of the United States or for some other purpose as approved by the governing authority, he shall for the purposes of the plan not be deemed to have broken continuity of credited future service (but such periods of absence shall not be counted as credited future service for the purpose of computing a pension hereunder unless the leave, as authorized by the governing authority,

specifically permits such participant to continue accumulating credited future service during the authorized leave of absence) provided:

1. Such a participant was regularly employed by the city immediately prior to his leave of absence, and
  2. He makes application for reemployment on or before the date of expiration of any leave of absence or within ninety (90) days after he first becomes entitled to his discharge or release from involuntary service in the Armed Forces of the United States, and
  3. He is reemployed as an eligible employee within ninety (90) days after such application.
- E. Each elected or appointed member of the governing authority who meets the qualifications for participation in the plan as set forth in article III, section 3, shall become a participant in the plan upon completing one year of service.
- (Ord. No. 4661, 8/10/88, Sec. 1)

#### **ARTICLE IV**

##### **Retirement Eligibility and Dates**

###### **Section 1. Retirement eligibility.**

- A. The retirement prerequisites of a participant under this plan are contingent upon the method of retirement selected by such participant; that is, normal retirement, early retirement, delayed retirement, or disability retirement; and whether or not such participant is a full-time employee. The prerequisites associated with each retirement method or employment status shall be as specified below in pertinent provisions of sections 2, 3, 4, 5, and 6, respectively, of this article IV.
- B. Retirement under the plan is contingent upon the satisfactory completion of a prescribed form provided for such purpose and the acceptance of the retirement application by the pension committee.
- C. Retirement applications shall be prepared and submitted at such time as to reach the office of the provider no earlier than ninety (90) days and no later than thirty (30) days prior to a participant's effective retirement date.

###### **Section 2. Normal retirement date.**

- A. Except as otherwise provided in section 4A(1) of this article IV, the normal retirement date of a participant shall be the first day of the month coinciding with or next following the date he has attained:
  1. Age fifty-five (55) and has completed a minimum of five (5) years of total credited service for Level 1 employees as defined in article III, section 2.
  2. Age sixty-five (65) and has completed a minimum of five (5) years of total credited service for Level 2 employees as defined in article III, section 2, who are full-time employees.
  3. Age sixty-five (65) and has completed a minimum of ten (10) years of total credited service for Level 2 employees, as defined in article III, section 2, who are elected or appointed members of the governing authority.
- B. A participant shall retire from the employment of the city on his normal retirement date except as otherwise provided in sections 3, 4, 5, and 6, of this article IV.

###### **Section 3. Early retirement date.**

A participant may retire from the service of the city on the first day of any month prior to his normal retirement date, provided he has a minimum of five (5) years of total credited service and has attained age forty-five (45) if such participant is a Level 1 employee, or age fifty-five (55) if such participant is a Level 2 employee, as defined in article III, section 2.

###### **Section 4. Delayed retirement date.**

A. A participant other than an elected or appointed member of the governing authority may continue employment with the city beyond the normal retirement age under any one of the following conditions:

1. If such participant has not completed five (5) years of total credited service under the plan when he attains the normal retirement age, he has the option to retire with his accrued monthly retirement benefit at that date, or continue his employment until the earlier of:

a. Completion of five (5) years of total credited service, or

b. Attainment of age sixty (60) if such participant is a Level 1 employee, or age seventy (70) if such participant is a Level 2 employee, as defined in article III, section 2.

c. If such participant does not elect to retire at the normal retirement age, (a) or (b) above shall become his normal retirement date and upon actual retirement he shall receive the retirement benefit for which he became eligible at the occurrence of (a) or (b) above.

B. Subsequent to the first anniversary of the effective date, retirement may not be delayed beyond age sixty (60) for a participant who is a Level 1 employee, or age seventy (70) for a participant who is a Level 2 employee, as defined in article III, section 2.

**Section 5. Disability retirement date.**

A participant may retire under the provisions of the plan on the first day of the first calendar month in which a participant becomes entitled to receive disability benefits under article VIII. Upon actual retirement, such participant shall receive the disability retirement benefit provided in article V, section 4, or any other retirement benefit granted under the plan for which he is eligible if such benefit is greater than the aforesaid disability retirement benefit. However, under no circumstances shall any retired participant be entitled at one time to more than one type of retirement benefit granted under the plan.

**Section 6. Elected and appointed members of the governing authority.**

If an elected or appointed member of the governing authority is holding an elective office of the governing authority when he becomes eligible for normal retirement as provided in this article IV, section 2a(3), his retirement shall be delayed until the first day of the month coinciding with or next following the date he vacates such elective office.

**ARTICLE V  
Retirement Benefits**

**Section 1. Normal retirement benefit.**

A. A participant or terminated participant, upon retirement on his normal retirement date, shall receive a monthly retirement benefit under which payments shall commence on the first day of the month following his normal retirement date and shall be payable on the first day of each month thereafter during his lifetime. The amount of the monthly retirement benefit for service rendered as an eligible employee of the city shall be computed as follows:

1. If the employee became a participant on or after January 1, 1984, the monthly retirement benefit shall be one and one-third percent (1.33%) of the final average earnings of the participant, multiplied by total years of credited service, divided by twelve (12).

2. If the employee became a participant prior to January 1, 1984, the monthly retirement benefit is (a) or (b), whichever is greater:

a. one and one-third percent (1.33%) of the final average earnings of the participant, multiplied by total years of credited service, divided by twelve (12); or

b. the monthly retirement benefit as computed under the plan formerly in existence prior to January 1, 1984; said benefit shall be calculated in accordance with Appendix "A".

The amount of the monthly retirement benefit for service rendered as an elected or appointed member of the governing authority exclusive of any periods of service as an eligible employee shall be sixteen dollars (\$16.00) for each year of credited service or major fraction thereof.

B. The following provisions shall apply to the calculation of a. above:

1. *Credited past service.*

a. Credited past service shall be the amount of past service of a participant. Breaks in regular full-time employment prior to the effective date of the plan followed by five (5) years of service or leave of absence will not break continuity of service but the time absent will not be considered as a period of credited past service.

b. Any full-time eligible employee who does not elect to become a participant as of the date he is first qualified to do so may elect to become a participant on the first day of any succeeding month; provided, however, that the credited past service of such participant shall not include the period of service from the date he was first qualified to become a participant to the date he elects to become a participant, or any creditable past service due him on the date he was first qualified to become a participant under the plan; and, further provided that he has enough time remaining until normal retirement age to accrue at least five (5) years of total credited service.

2. *Credited future service* shall be as defined in article II, section 27, and limited to time spent as a participant in the service of the city, except as provided in article III, section 4d. Breaks in any tenure of elective office of an elected or appointed member of the governing authority will not break continuity of service but the time absent will not be considered as a period of credited future service.

3. *Total credited service*, both past and future, shall be the sum of credited past and credited future service. The amount of total credited service for any participant shall be unlimited except that:

a. No credit will be given for service performed as an eligible employee of the city which precedes a participant's most recent date of employment as a new employee; and

b. Total credited service shall not exceed the total calendar years and complete months during which a participant was either an eligible employee or an elected or appointed member of the governing authority or both.

4. *Final average earnings* shall mean the average of the annual earnings paid to a participant during any consecutive three (3) year period preceding his actual date of retirement in which his earnings were highest; or if he had less than three (3) years of total credited service, then his final average earnings shall be his average earnings for his total credited service.

5. *Maximum annual earnings* to be used for computing final average earnings shall be unlimited.

6. *Final average earnings* as defined in subparagraph (4) above shall be used for computing the monthly retirement benefit except as herein otherwise provided.

7. *Full months of credited past and future service* shall be treated as fractions of one (1) year. Partial months shall not be included in the calculation.

C. An employee who retired under the provisions of any superseded plan prior to November 1, 1973, shall be entitled to a monthly benefit in addition to any benefit he is now receiving, effective the first day of September, 1977, and payable on the first day of each month thereafter. The amount of said monthly benefit shall be the difference between (a) the benefit such retired employee is now receiving from New England Life Insurance Company under the terms of the superseded plan and (b) the amount he would have received as a Class 2 participant under the terms of article V, section 1.a. of this plan if this plan had been in effect at the time of his retirement. Any payments made pursuant to this paragraph shall cease upon the death of the retiree.

## **Section 2. Early retirement benefit.**

A participant, upon retirement on his early retirement date, shall, at his election, receive either:

A. An immediate monthly retirement benefit under which payment shall commence on the first day of the month following the participant's early retirement date and shall be payable on the first day of each month thereafter during the lifetime of the participant. The amount of each monthly retirement benefit shall be computed



in the same manner as for a normal retirement benefit, but the benefit so computed shall be reduced on an actuarially equivalent basis in accordance with the tables set forth in Appendix "B"; or

B. A delayed monthly retirement benefit under which payment shall commence on the first day of the month coinciding with or next following the retired participant's fifty-fifth (55th) birthday if such participant is a Level 1 employee, or sixty-fifth (65th) birthday if such participant is a Level 2 employee, as defined in article III, section 2, and shall be payable on the first day of each month thereafter during the lifetime of the participant. The amount of each monthly retirement benefit shall be computed in the same manner as for a normal retirement benefit.

**Section 3. Delayed retirement benefit.**

The delayed retirement benefit shall be calculated in the same manner as the normal retirement benefit, and said benefit shall be increased actuarially due to the participant's actual age at retirement in accordance with the tables set forth in Appendix F.

**Section 4. Disability retirement benefit.**

The amount of the disability retirement benefit shall be calculated in the same manner as the normal retirement benefit with no actuarial reduction for age imposed. In no event, however, will a participant's disability retirement benefit be less than fifty percent (50%) of his average monthly earnings for the twelve (12) calendar month period immediately preceding his termination of employment as a result of a disability. Upon retirement on his disability retirement date, a participant shall receive a monthly retirement benefit commencing on the first day of the month coinciding with his disability retirement date and payable on the first day of each month thereafter so long as his disability continues.

**Section 5. Cost-of-living adjustment.**

A. The amount of the benefits payable under this plan to a participant classified as a Level 1 employee as defined in article III, section 2, or his beneficiary, shall be adjusted by the current average cost-of-living index figure as provided herein.

B. The current average cost-of-living index figure shall be ascertained as of August 1 in each year.

C. Each monthly retirement benefit then being received shall thereupon be adjusted as follows:

1. Each monthly retirement benefit shall be increased by a percentage equal to the percentage representing the current average cost-of-living index figure divided by each recipient's cost-of-living base figure. If the current average cost-of-living index figure is less than the average cost-of-living index figure determined on August 1 of the previous calendar year, no reduction in the monthly retirement benefit shall be effected.

2. Notwithstanding the foregoing provisions, no increase in the amount of a monthly retirement benefit due to changes in the current average cost-of-living index figure effective at any annual adjustment date August 1 shall be in excess of an average increase of four percent (4%) of the amount of the monthly retirement benefits payable immediately prior to such participant's or beneficiary's applicable adjustment date.

**Section 6. Suspension of benefits.**

A. Any retirement pension payable under this plan to any participant who shall have retired or been retired pursuant to any provisions of article IV or whose service with the city shall have terminated on or after his vesting date shall be suspended as of the date he is reemployed by the city or holds an elective office of the governing authority except as otherwise provided herein and shall be resumed as of the first day of the month coinciding with or next following his subsequent retirement. In any case where the payment of a participant's retirement pension shall have been so suspended, the retirement pension payable on his subsequent retirement (whether before or after his normal retirement date) shall be the benefit computed in accordance with this article V

on the basis of his aggregate credited service, and for an eligible employee on the basis of his final average earnings, at the time of his subsequent retirement, but reduced on an actuarial basis by the value of an early retirement benefits received by him prior to being reemployed as an eligible employee or return to elective office, except that the resulting benefit shall not be less than the benefit payable at the time of his previous retirement. For the purposes of this section 6, any such participant's credited service subsequent to his reemployment by the city or holding of an elective office of the governing authority shall commence as of the date of his reemployment as an eligible employee or as of the date his term of elective office begins, whichever is applicable.

B. Any disability retirement pension payable under this plan to any participant who shall have retired or been retired pursuant to any provisions of article IV, section 5, shall be suspended as of the date his disability ceases. In any case where the payment of a participant's disability retirement pension shall have been so suspended, said period of absence from employment due to such disability shall be treated as a leave of absence without pay and the provisions of article III, section 4 shall apply except that such period of absence shall not be counted as credited future service. Any participant who shall have retired or been retired pursuant to the provisions of article IV, section 5 and who dies or who has been or shall be subsequently declared ineligible for a disability retirement benefit because of a cessation of said disability shall have a right to any benefit afforded under any other provision of this plan to which he or his beneficiary might otherwise be entitled. In such a case any disability retirement payments made prior to the date his disability ceases or is declared to no longer exist shall be retained by the retiree and disregarded in computing any other benefit payable under this plan.

#### **ARTICLE VI**

##### **Optional Form of Retirement Income**

###### **Section 1. Election of optional retirement benefit.**

A participant may elect, or may revoke said election, at any time prior to his actual retirement date, to have his retirement benefit payable under the option hereinafter set forth in lieu of the retirement benefit he is otherwise entitled to receive. The option shall only be available if the participant retires at his normal retirement date. The benefit shall be paid in accordance with the terms of said option. Election of said option shall be made by the participant in writing.

###### **Section 2. Description of option.**

The amount of the optional retirement benefit set forth below shall be the actuarial equivalent of the amount of benefit that would otherwise be payable to the participant under article V.

*Option A: Social Security option.* An increased retirement benefit payable to the participant during his lifetime until his retirement benefits commence under O.A.S.D.I. and a decreased retirement benefit payable thereafter for life in order to have a more level retirement income when such decreased retirement benefit is added to his primary benefits under O.A.S.D.I. determined as of his early retirement date; said benefit shall be computed in accordance with the tables set forth in Appendix "C". At the death of the participant all payments will cease and no further benefits will accrue to the estate of the participant or to other persons except as provided in article III, section 2. This option shall be known as Option A. If the benefit determined to be payable from the plan, when O.A.S.D.I. benefits commence, results in a negative balance, this option cannot be elected.  
(Ord. No. 4548, 4/8/87, Sec. 1)

###### **Section 3. Cancellation of election.**

The election by a participant of said option in section 2 of this article VI shall be null and void if the participant shall die before benefits commence.

#### **ARTICLE VII**

##### **Death or Termination of Employment**

**Section 1. Death prior to retirement.**

A. If the employment or term of elective office of a participant is terminated by reason of his death prior to his retirement in accordance with the provisions of article IV, there shall be payable to his designated beneficiary a monthly death benefit actuarially equivalent to the participant's anticipated normal retirement benefit assuming that his age at the time of his death is fifty-five (55) if he is a Level 1 employee, or sixty-five (65) if he is a Level 2 employee, as defined in article III, section 2; said benefit shall be computed in accordance with the tables set forth in Appendix "D".

B. Designation of a beneficiary prior to retirement may be changed by the participant in writing at any time prior to actual retirement on a form provided for that purpose. Only the last such designation of a beneficiary prior to retirement will have effect and any new designation of a beneficiary prior to retirement invalidates, supersedes, and revokes any prior designation.

(Ord. No. 4485, 7/9/86, Sec. 1; Ord. No. 4500, 8/13/86, Sec. 1; Ord. No. 4653, 7/13/88, Sec. 1 (Exhibit B))

**Section 2. Death after retirement.**

Upon the death of a participant subsequent to his retirement in accordance with article IV, sections 1, 2, 3, 4, 5, or 6, a monthly death benefit shall be paid to his designated beneficiary, said benefit shall be computed in accordance with the tables set forth in Appendix "E".

(Ord. No. 4485, 7/9/86, Sec. 1; Ord. No. 4653, 7/13/88, Sec. 1 (Exhibit B))

**Amendment Note:** Ord. No. 4485, 7/9/86, deleted Art. VII, sections 1, 2; Ord. No. 4500, 8/13/86, added Art. VII, section 1; subsequently, Ord. No. 4653, 7/13/88, reinstated former Art. VII, sections 1, 2 as adopted by Ord. No. 4200, 2/8/84.

**Editorial Note:** Ord. No. 4655, 7/13/88, Sec. 1, provided as follows:

**Section 1:** Ordinance No. 4022, which adopted a new retirement plan for the employees of the City of Marietta, Georgia, is hereby amended by permitting any employee that retired from the City of Marietta, Georgia prior to January 1, 1984, to be eligible to receive the death benefits which have been reinstated pursuant to Ordinance No. 4653. The rights and obligations with respect to any employee or beneficiary that has already commenced to receiving benefits for any for any reason whatsoever prior to the effective date of this Ordinance are fixed and shall be governed by such retirement plan as it existed and was in effect at the time said benefits commenced. It is hereby declared to be the specific intention of the Ordinance that no participant or beneficiary shall be eligible or entitled to receive more than one type of benefit from the City of Marietta, Georgia by virtue of the passage of this Ordinance. Rather, it is the intention of this Ordinance to permit employees that retired prior to January 1, 1984, to be eligible for the death benefits which have been reinstated pursuant to Ordinance No. 4653 but not to provide duplicate benefits for any employee or beneficiary that has already commenced receiving benefits prior to the effective date of this Ordinance.

**Section 3. Termination of employment before retirement.**

A. A participant, other than an elected or appointed member of the governing authority who is not an eligible employee, whose employment is terminated under any of the following conditions for any reason other than death, disability, or retirement shall be entitled to a vested right in his accrued retirement benefits. Payment of such vested retirement benefit shall commence on the first day of the month coinciding with or next following his normal or early retirement age at the option of the participant and shall be payable on the first day of each month thereafter during the life of the participant. The amount of each monthly retirement benefit shall be

computed in the manner prescribed for normal or early retirement in Article V herein, but based upon his final average earnings and total credited service up to the participant's date of termination of employment with the city.

1. A participant whose employment is terminated voluntarily or involuntarily shall be entitled to a vested benefit if he has completed a minimum of five (5) years of credited service in the plan.

2. A participant whose employment is terminated voluntarily or involuntarily because he is disabled shall be entitled to a vested benefit provided he qualifies for disability retirement under the provisions of the plan within one (1) year of said termination of employment.

**Section 4. Termination of tenure of elective office.**

A participant who is an elected or appointed member of the governing authority and who is not regularly employed in the services of the city shall be entitled to a vested right if he has completed a minimum of ten (10) years of credited service in the plan.

**ARTICLE VIII  
Disability Benefits**

**Section 1. Definition.**

An employee will be considered disabled if unable, solely because of disease or accidental bodily injury, to work at his or her own occupation or at any reasonable occupation for which the employee is engaged, or may reasonably become engaged, fitted by education, training or experience; provided, however, that such disability shall not have been (a) self-inflicted; (b) incurred in military service; (c) incurred in the commission of a felonious enterprise; or (d) the result of the use of narcotics or drugs or habitual drunkenness. Notwithstanding the fact that an employee may initially be determined disabled, disability benefits shall terminate upon the occurrence of any events set forth in section 5.

(Ord. No. 4332, 5/14/86, Sec. 1)

**Section 2. Covered employee.**

Only full-time employees who have completed twelve (12) months of continuous service shall be eligible for disability retirement.

**Section 3. Application for disability retirement.**

It is the responsibility of the employee to file an application for disability retirement with the secretary of the pension board within thirty (30) days of the date that the employee last worked or last received pay for the accumulated leave.

**Section 4. Evidence of disability.**

Upon receipt and acceptance for disability retirement by the pension board, the applicant must furnish such evidence of disability in writing from the applicants' physician to substantiate a claim of disability as set forth in the definition of disability established in section 1 above. The pension board may request such additional evidence as it deems necessary to substantiate a disability claim including additional examination by an independent physician of its choice. The cost of such additional examination shall be paid by the City of Marietta.

**Section 5. Termination of disability entitlement.**

A period of total disability ceases on the earliest to occur of the following:

A. The date the employee ceases to be totally disabled.

- B. The date the employee commences work at a reasonable occupation means any gainful activity for which the employee is engaged, or may reasonably become engaged, fitted by education, training or experience.
- C. The date the employee fails to furnish proof of the continuance of total disability or refuses to be examined when required.
- D. The date the employee ceases to be under the care of a physician.
- E. The date of the employee's death.

**Section 6. Successive period of disability.**

Notwithstanding the fact that an employee may initially be determined disabled, and subsequently have disability benefits terminated because of the occurrence of any event set forth in section 5, said employee may continue to be eligible for a successive period of disability benefits, if said employee is later determined disabled again as provided under this article. The purpose of the successive disabilities rule is to encourage the employee to return to full-time work by assuring if the disability occurs again due to the same or related cause soon after returning to work, the employee will not have to complete a new qualifying period in order to qualify for benefits.

**Section 7. Definition of physician.**

The term "physician" means a legally qualified physician, except that with respect to a period of total disability, or any portion thereof, during which total disability is caused by any condition other than a medically determinable physical impairment, "physician" shall mean a legally qualified physician who either specializes in the practice of psychiatric medicine or has by reason of training or experience, a specialized competency in the field of psychiatric medicine sufficient to render the necessary evaluation and treatment of mental illness.

**Section 8. Dispute and regulation interpretation.**

In the event that a dispute arises concerning any entitlement or interpretation of any portion of the regulations established under this retirement ordinance, the pension board shall settle such dispute by a majority vote of the members of the board and such decisions are final and binding on all parties subject to provision for appeal and reapplication.

**Section 9. Appeal and reapplication.**

In the event that an applicant for disability retirement is dissatisfied with a decision of the pension board with respect to the employee's entitlement or eligibility for disability benefits, the applicant may reapply for eligibility no sooner than six (6) months from the receipt of the board's decision. Request for reapplication will be considered only where evidence of medical examination indicates a change of medical condition which could influence the board's decision.

**ARTICLE IX****Contributions****Section 1. City contributions.**

The city shall make the necessary contributions to fund this retirement plan. The amount of these contributions shall be based upon the mortality tables adopted by the provider, the benefits provided in the plan, and the number of participants and their respective ages, earnings and lengths of creditable service and such other factors as the provider shall deem appropriate to properly fund this plan. All contributions by the city shall be used

only for the benefit of the participants and eligible beneficiaries. City contributions shall be collected monthly by the pension board and shall be remitted to the provider as required.

**Section 2. Participant contributions.**

The participants shall not be required to make any contributions to the cost of this plan.

**ARTICLE X**

**Pension Board**

**Section 1. Definitions and rules of construction.**

- A. *Board* shall mean the pension board created by this article.
- B. *Police and fire employees* shall mean the sworn personnel of the police and fire departments.
- C. *General employees* are personnel other than the sworn personnel of the police and fire departments.
- D. *Provider* shall mean any person, partnership, corporation or other legal entity which supplies or provides pension, retirement or disability payments to employees, including elected members of the governing authority of the City of Marietta.
- E. *Council* shall mean the governing authority of the City of Marietta which shall include the mayor and members of the council.
- F. *Time*. In computing time required under this ordinance, time shall be computed without exclusion of Sundays and holidays.
- G. *Gender*. When used in this ordinance, the male gender shall include the female and neuter genders.

**Section 2. Creation.**

There is hereby created in the City of Marietta a pension board which shall consist of such members selected and having such duties, functions and powers as are hereinafter prescribed.

**Section 3. Functions and powers.**

The pension board shall have the following duties, functions and powers:

- A. In its dealings with any provider, the pension board shall:
  - 1. Furnish all information with respect to enrollment of employees, including elected and appointed members of the governing authority.
  - 2. Collect and remit to any provider all required contributions.
  - 3. Furnish any provider, in accordance with its rules and regulations, all reports, and other records required to administer this plan.
  - 4. Notify any provider, in accordance with its rules and regulations, of all benefit elections made by participants under any plan adopted and all matters regarding payment of benefits.
  - 5. Notify any provider of the termination of participating employees in any plan adopted and the vacation of elective office by elected and appointed members of the governing authority.
- B. In dealing with those persons participating or eligible to participate in any pension, retirement or disability program, the pension board shall:
  - 1. Be responsible for the enrollment of eligible employees and elected and appointed members of the governing authority.

2. Handle distribution of all reports to participants.
3. Handle arbitration between the city and the participants in all matters regarding the plan.
4. Handle any notices of eligibility, benefits, available options, and any other notices required by this plan, contract or rules and regulations of any provider.
5. Decide all questions and disputes on the interpretation and eligibility of persons for payment under any pension, retirement and disability ordinance of the City of Marietta.
- C. In performance of its duties, the pension board shall have the following powers:
  1. Recommend to the council the awarding of contract(s) for provider(s) of pension, retirement or disability benefits;
  2. Adopt rules and regulations providing procedures for the granting of pension, retirement and disability benefits and to approve payments for such persons entitled to payment;
  3. Adopt investment programs and procedures for funds held by any provider of pension, retirement and disability payments;
  4. Adopt and use a seal on all documents issued by the board;
  5. Review and recommend changes in the pension, retirement and disability program;
  6. When requested by the city manager, to advise the city manager on all pension, retirement or disability payment matters; and
  7. To do all other things necessary and proper to carry out the duties required of it as the pension board of the City of Marietta.

**Section 4. Appeal and procedure.**

Any person dissatisfied with any decision of the pension board shall have the right to appeal the decision to the council by delivering to the city manager a written notice within ten (10) days of the decision complained of. The city manager shall cause the secretary of the pension board, within ten (10) days after such receipt, to provide to the clerk of the council all documents relied upon by the pension board in reaching its decision. The council shall decide the appeal within seventy-five (75) days of receipt of the appeal documents from the secretary of the pension board. Should the council fail to act within seventy-five (75) days of the decision of the pension board, the decision of the pension board shall be affirmed. In ruling on any appeal from the pension board, the decision of the pension board shall be presumed correct and based upon sufficient facts to sustain it.

**Section 5. Membership and operation of pension board.**

The pension board shall consist of nine (9) members elected from posts as follows:

- |      |    |                                  |
|------|----|----------------------------------|
| Post | 1: | City manager or his designee     |
| Post | 2: | Council member                   |
| Post | 3: | Council member                   |
| Post | 4: | General employee representative  |
| Post | 5: | General employee representative  |
| Post | 6: | General employee representative  |
| Post | 7: | General employee representative  |
| Post | 8: | Police department representative |
| Post | 9: | Fire department representative   |

The police chief and fire chief shall be ex-officio members of the pension board and shall vote in the absence of the police and fire representatives.

*Terms.* All members shall be elected as hereinafter provided in November and shall begin service on January 1 for a term of two (2) years.

Selection of council, police, fire and general employee members:

*Council representative.* Two (2) members of the council shall serve on the pension board. They shall be appointed by the mayor with consent of the council and shall serve for their duly elected term. If for some reason a duly appointed member cannot fulfill his or her term on the board, he or she shall be replaced by a member of the council appointed by the mayor with consent of the council.

*Police representative.* One member of the pension board shall be a representative of the police department. The senior officer in each of the ranks of police captain, police lieutenant, police sergeant, detective and police officer shall serve as a nominating committee for the police department. The highest ranking officer shall serve as chairman of the nominating committee.

*Fire representative.* One member of the pension board shall be a representative of the fire department. The senior officer in each of the ranks of assistant fire chief, company officer (fire captain or fire lieutenant), firefighter engineer, and firefighter shall serve as a nominating committee for the fire department. The highest ranking officer shall serve as chairman of the nominating committee.

*Election of police and fire representatives.* The chairman of each respective nominating committee of police and fire shall call a meeting of the committee in November of the year immediately preceding the termination of the police and fire representatives on January 1 of the next year. The purpose of this meeting will be to nominate three (3) employees from each of the departments of fire and police. The names of the three (3) employees nominated shall be placed on a ballot with space provided for write-ins. Ballots shall be distributed by the nominating committees to all of the employees in the respective departments of police and fire. Ballots shall be marked in secret and returned to the nominating committee the same day they are distributed. Each employee will vote for one (1) candidate and the candidate receiving a plurality of votes shall be the representative of their respective departments to the pension board. If for any reason the duly elected representative of the police or fire departments cannot fulfill his or her office, the respective nominating committee shall designate a replacement for the duration of the vacated membership.

*General employees.* Four (4) members of the pension board shall be representatives of the general employees. A nominating committee consisting of the director of personnel, or a designee thereof, one person appointed by the director of public works, three persons appointed by the BLW board manager, one (1) of which cannot be in a supervisory position; two (2) persons appointed by the city manager, one (1) of which cannot be in a supervisory position; and one person appointed by the director of parks and recreation, and one person appointed by the director of property management shall nominate the candidates for membership on the pension board. The director of personnel, or the designee thereof, shall act as presiding officer of the nominating committee and call a meeting of the committee in the month of November in the year immediately preceding the end of the current members term. The purpose of this meeting shall be to nominate two (2) candidates for each expiring term of a member of the pension board represented by the general employees. The names of such employees nominated shall be placed on a ballot with space provided for write-ins. Ballots shall be distributed to all general employees. Ballots shall be marked in secret and returned to the nominating committee the same day they are distributed. Each employee will vote for as many candidates as there are representative seats of the general employees expiring on January 1. The candidates receiving the highest plurality votes for such seats shall be selected as the representatives of the general employees to the pension board. If for any reason the duly elected representative of the general employees cannot fulfill his or her office, the nominating committee shall designate a replacement for the duration of vacated membership.

*Officers.* The pension board may elect such officers as it deems necessary. The board shall elect a chairman and a secretary.

The chairman shall preside at meetings of the board, cast a vote on any issue, call meetings as may be necessary, and do all things necessary to carry on the orderly affairs of the board. The chairman shall be selected by a majority vote of the board for a one-year term. The board shall designate, in writing, a secretary or other representative who shall have full authority to represent the board in all communications with any provider and the city's employees, including elected and appointed members of the governing authority. The secretary shall keep accurate minutes of all meetings of the board, recording those voting for and against any issue. Minutes shall be



distributed to each member of the board, the council of the City of Marietta and shall be posted in a prominent place(s) within the City Government Complex.

*Legal assistance.* The city attorney or other attorney appointed by the governing authority shall furnish legal advice to the pension board on any issue before it upon which legal advice is sought.

*Meetings.* The pension board shall meet at least quarterly. Five (5) members of the board (including the chairman) shall constitute a quorum. The city manager or his designee shall have authority to approve pension, retirement and disability payments pending a meeting of the board.

*Rules of procedure.* The pension board shall have the authority to promulgate rules and regulations for its internal operation, as well as the approval of payments within its jurisdiction.

## **ARTICLE XI**

### **Amendment and Termination**

#### **Section 1. Amendment of the plan.**

The governing authority shall have the right at any time, and from time to time, to amend, in whole or in part, any or all of the provisions of the plan following the review and recommendation by the pension board; provided, however, that no such amendment shall:

- A. Reduce the accrued benefits of any participant or beneficiary, or
- B. Authorize or permit any part of the trust fund held by the provider to be diverted to purposes other than for the exclusive benefit of participants and their beneficiaries, and
- C. No amendment shall operate to deprive any participant or beneficiary of any rights or benefits irrevocably vested in him under the plan prior to such amendment except that the governing authority may make any and all changes and modifications necessary to qualify the plan or to keep the plan qualified under the Internal Revenue Code and the regulations thereunder, or any amendment thereto.

#### **Section 2. Termination of the plan.**

A. The city expects the plan to be continued indefinitely but, of necessity, reserves the right to terminate the plan and contributions thereunder at any time by action of the governing authority. Upon receipt of written notice from the governing authority of termination of the plan, the provider shall prepare a list of all participants showing for each, as of the date of plan termination, the following:

1. For each retired participant and beneficiary receiving payment of benefits, the amount and terms of payment of such benefits.
2. For each terminated participant entitled to a deferred benefit, the amount, commencement date, and terms of payment of such benefit.
3. For each active participant the amount of his accrued benefit.

B. The provider shall arrange for the liquidation of all assets held in the trust fund maintained in connection with the plan and shall prepare a statement of the liquidated value of such assets. The governing authority, in its sole discretion, may direct the provider to purchase from an insurance company an annuity contract or contracts which provide the benefits to which each participant or beneficiary is entitled or to pay a lump sum to each participant or beneficiary, such lump sum amount to be actuarial equivalent of the benefit to which such participant or beneficiary is entitled.

C. The provider shall then deduct from the assets total remaining expenses incurred or to be incurred by the provider in behalf of the plan. The provider shall except as otherwise provided in this section 2 then allocate the remaining assets for distribution in accordance with the classes listed below. The benefits of each class shall be satisfied before proceeding to the next class. If at any time the remaining plan assets would be insufficient to provide the accrued benefits for the class in question, the remaining assets would be applied on a pro rata basis within that class, and all subsequent classes would receive no benefit.

Class 1—Retired participants or beneficiaries who are receiving payments on the termination date.

Class 2—Participants delaying retirement.

Class 3—Participants eligible for early retirement.

Class 4—Former employees who are terminated participants.

Class 5—All other participants on a pro rata basis.

d. Upon distribution of the assets as specified above, the plan shall be regarded as terminated and no participant or beneficiary shall have any further rights or claim therein.

**ARTICLE XII  
Miscellaneous**

**Section 1. Construction.**

A. In the construction of the plan all masculine shall include the feminine and the singular the plural in all cases where such meanings would be appropriate.

B. The plan shall be construed in accordance with the laws of the State of Georgia.

C. In the event that any section, subsection, sentence, clause or phrase of this agreement shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the previously existing provisions or the other section or sections, subsections, sentences, clauses, or phrases of this agreement, which shall remain in full force and effect, as if the section, subsection, sentence, clause or phrase so declared or adjudicated invalid or unconstitutional were not originally a part hereof. The governing authority hereby declares that it would have passed the remaining parts of this agreement or retained the previously existing provisions if it had known that such part or parts hereof would be declared or adjudicated invalid or unconstitutional.

**Section 2. Non-alienation of benefits.**

None of the benefits, payments, proceeds, or distributions payable under the plan shall be subject to the claim of any creditor of any participant or to the claim of any creditor of any beneficiary hereunder, or to any legal process of levy or attachment by any creditor of any such participant or beneficiary; and no such benefits shall be in any manner liable for or subject to the debts, liabilities, engagements, or torts of any participant or beneficiary, and neither any such participant or beneficiary shall have any right to alienate, commute, anticipate, transfer, encumber, pledge or assign any of the benefits, payments proceeds, or distributions under the plan. If any participant or beneficiary shall become bankrupt or attempt to anticipate, assign or pledge any benefits, then such benefits shall, in the discretion of the pension board, cease, and in that event the pension board shall have authority to cause the same, or any part thereof, to be held or applied to or for the benefit of such member, his spouse, his children, or other dependents, or any of them, in such manner and in such proportion as the pension board may think proper.

**Section 3. Legally incompetent.**

Any participant or beneficiary receiving or claiming benefits under the plan shall be conclusively presumed to be mentally competent and of age until the pension board receives a written notice, in a form and manner acceptable to it, that such person is incompetent or a minor, and that a guardian or other person legally vested with the care of his estate has been appointed. In the event that the pension board finds that any person to whom a benefit is payable under the plan is unable to properly care for his affairs, or is a minor, then any payment due (unless a prior claim therefor shall have been made by a duly appointed legal representative) may be paid to the spouse, a child, a parent, or a brother or sister, or to any person deemed by the pension board to have incurred expense for such person otherwise entitled to payment. In the event a guardian of the estate of any person receiving or claiming benefits under the plan shall be appointed by a court of competent jurisdiction, payments shall be made to such guardian provided that proper proof of appointment is furnished in a form and manner suitable to the pension board. Any payment so made shall be a complete discharge of liability therefor under the plan.

**Section 4. Benefits supported only by trust fund.**

Any person having any claim under the plan will look solely to the assets of the trust fund for satisfaction. In no event will the city, or any of its employees or agents, be liable in their individual capacities to any person whomsoever, under the provisions of the plan.

**Section 5. Discrimination.**

The city, through the pension board, shall administer the plan in a uniform and consistent manner with respect to all participants and shall not permit discrimination in favor of supervisory or highly paid employees, elected or appointed members of the governing authority, the chief legal officer or any associate legal officer of the city, or any municipal officer elected or appointed to preside over the court of said city.

**Section 6. Limitation of liability; legal actions.**

A. It is expressly understood and agreed by each employee who becomes a participant hereunder that, except for its or their willful neglect or fraud, neither the city, the pension board, nor the provider shall be in any way subject to any suit or litigation, or to any legal liability, for any cause or reason or thing whatsoever, in connection with the plan or its operation, and each such participant hereby releases the city, all its employees and agents, the pension board, and the provider from any and all liability or obligation.

B. To any action or proceeding involving any rights under the plan or the proper administration thereof, the city and the pension board shall be the only necessary parties and no participant, or his beneficiary, or any other persons having or claiming to have an interest in the plan shall be entitled to any notice or process. Any final judgment which is not appealed or appealable that may be entered in any such action or proceeding shall be binding and conclusive on the parties hereto and all persons having or claiming to have an interest in the plan.

**Section 7. Claims.**

Any payment to a participant, or beneficiary, or to their legal representatives, in accordance with the provisions of the plan, shall to the extent thereof be in full satisfaction of all claims hereunder against the pension board or the city, either of which may require such participant, beneficiary, or legal representative, as a condition precedent to such payment, to execute a receipt and release therefor in such form as shall be determined by the pension board or the city, as the case may be.

**Section 8. Application for benefits.**

Any provision in the plan to the contrary notwithstanding, benefits may become payable only after the participant, beneficiary, or their legal representative, whichever is applicable, has made written application therefor to the pension board. Benefits for which no such application has been made within three (3) years following the date of entitlement to such benefits shall be forfeited. In no event shall any forfeitures be applied to increase the benefits any participant or beneficiary would otherwise receive under this plan.

**Section 9. Fraud, embezzlement, theft, and dismissal for cause.**

In the event the employer shall receive prior to a participant's actual retirement date, written confession by such participant, or proof satisfactory to the governing authority that such participant has committed or has been convicted of having committed an act of fraud, embezzlement, or theft in connection with his duties or in the course of his employment with the city, or in connection with the plan, his participation in the plan shall be forthwith terminated; and any vested interest that such participant may have in the fund shall be forfeited.

**Section 10. Errors in computation of benefits.**

Any overpayments or underpayments from the trust fund to a retired participant or to a beneficiary caused by errors of computation shall be adjusted with interest at the rate of five percent (5%) per year compounded annually. Overpayments shall be charged against retirement payments next succeeding the correction. Underpayments shall be made up from the trust fund.

**ARTICLE XIII  
Repealer Clause**

All ordinances or parts of ordinances in conflict herewith are hereby expressly repealed.

*In Witness Whereof*, the City has caused its Seal and the Signatures of its authorized officers to be affixed this 8th day of February, 1984.

CITY OF MARIETTA, GEORGIA

APPROVED:

/s/

Mayor and Council

DATE: February 8, 1984

ATTEST:

/s/ Barbara M. Goscha  
City Clerk

**Appendix "A"**

The amount of the monthly retirement benefit for service rendered as an eligible employee of the city for purposes of article V, section 1a.2(b) shall be determined as one-twelfth (1/12th) of the sum of (1) and (2) below.

1. Past service—One and one-tenth percent (1.1%) of the final average earnings up to the amount of covered compensation applicable to the participant, plus two percent (2%) of final average earnings in excess of the covered compensation applicable to the participant, multiplied by the total years of credited past service.

2. Future service—One and one-tenth percent (1.1%) of the final average earnings up to the amount of covered compensation applicable to the participant, plus two percent (2%) of final average earnings in excess of the covered compensation applicable to the participant, multiplied by the total years of credited future service.

Applicable covered compensation as used in (1) and (2) above shall be determined as follows: For participants who retire or terminate vested in a plan year, covered compensation will be based on that participant's year of attaining normal retirement age.

For purposes of an example only, the following tables are attached hereto as an illustration of the covered compensation tables that will be prepared by the provider or the actuary whichever is directed to do so by the pension board. There will be two tables prepared. In the examples, Table A will be used for Level I employees and Table B will be used for Level II employees. As noted in the new definition of covered compensation, these tables will be updated annually and the tables attached to this ordinance are for purposes of illustration only. If a participant retires or terminates vested in a plan year, you will first determine the year that the participant retires or terminates vested. You will then determine the participant's year of birth which will relate to the year the participant would reach normal retirement age.

**Level I example:**

Using Table "A" that is provided as an illustration, if a Level I participant retires in 1985 and was born in 1939 and therefore will reach age 55 in 1994, the applicable covered compensation would be \$20,436. This example is applicable to a Level I participant that retires, early retires or terminates vested.

**Level II example:**

Using Table "B" that is provided as an illustration, if a Level II participant has terminated vested in 1984 and was born in 1931, the applicable covered compensation would be \$21,852. (Ord. No. 4624, 3/9/89, Sec. 1)

**Amendment Note:** Ord. No. 4624, 3/9/88, amended App. A in its entirety as herein set out.

TABLE A GOES HERE

Table "A"

Year of Birth	Year Participant Reaches Age 55	For Calculations Done In:			
		1984	1985	1986	1987
1929	1984	\$12,840			
1930	1985	13,800	\$13,800		
1931	1986	14,688	14,760	\$14,760	
1932	1987	15,516	15,648	15,732	\$15,732
1933	1988	16,284	16,464	16,632	16,692
1934	1989	17,004	17,244	17,484	17,604
1935	1990	17,676	17,964	18,276	18,444
1936	1991	18,300	18,636	19,008	19,236
1937	1992	18,888	19,272	19,704	19,980
1938	1993	19,452	19,872	20,364	20,688
1939	1994	19,968	20,436	20,988	21,348
1940	1995	20,916	21,432	22,044	22,452
1941	1996	21,852	22,428	23,112	23,568
1942	1997	22,800	23,412	24,168	24,684
1943	1998	23,748	24,408	25,236	25,800
1944	1999	24,684	25,404	26,292	26,916
1945	2000	25,632	26,400	27,360	28,032
1946	2001	26,568	27,396	28,428	29,148
1947	2002	27,468	28,332	29,436	30,204
1948	2003	28,356	29,280	30,444	31,272
1949	2004	29,208	30,192	31,428	32,292
1950	2005	30,072	31,092	32,400	33,324
1951	2006	30,924	32,004	33,372	34,356
1952	2007	31,788	32,916	34,356	35,388
1953	2008	32,604	33,792	35,292	36,372
1954	2009	33,372	34,608	36,192	37,320
1955	2010	34,080	35,364	37,008	38,196
1956	2011	34,752	36,096	37,812	39,048
1957	2012	35,400	36,792	38,568	39,852
1958	2013	36,012	37,452	39,300	40,632
1959	2014	36,588	38,076	39,996	41,388
1960	2015	37,008	38,556	40,536	41,976
1961	2016	37,344	38,940	41,004	42,492
1962	2017	37,584	39,228	41,352	42,900
1963	2018	37,740	39,432	41,628	43,224
1964	2019	37,800	39,540	41,808	43,452
1965	2020		39,600	41,928	43,620
1966	2021			42,000	43,740
1967					48,800

Table "B"  
RETIREMENT PLAN  
COVERED COMPENSATION TABLES

For Calculations Done In:

Year of Birth	1984	1985	1986	1987	1988
1919	\$12,840				
1920	13,800	\$13,800			
1921	14,688	14,760	\$14,760		
1922	15,516	15,648	15,732	\$15,732	
1923	16,284	16,464	16,632	16,692	\$16,692
1924	17,004	17,244	17,484	17,604	17,640
1925	17,676	17,964	18,276	18,444	18,528
1926	18,300	18,636	19,008	19,236	19,356
1927	18,888	19,272	19,704	19,980	20,124
1928	19,452	19,872	20,364	20,688	20,856
1929	19,968	20,436	20,988	21,348	21,552
1930	20,916	21,432	22,044	22,452	22,692
1931	21,852	22,428	23,112	23,568	23,844
1932	22,800	23,412	24,168	24,684	24,996
1933	23,748	24,408	25,236	25,800	26,148
1934	24,684	25,404	26,292	26,916	27,288
1935	25,632	26,400	27,360	28,032	28,440
1936	26,568	27,396	28,428	29,148	29,592
1937	27,468	28,332	29,436	30,204	30,684
1938	28,356	29,280	30,444	31,272	31,788
1939	29,208	30,192	31,428	32,292	32,844
1940	30,072	31,092	32,400	33,324	33,912
1941	30,924	32,004	33,372	34,356	34,968
1942	31,788	32,916	34,356	35,388	36,036
1943	32,604	33,792	35,292	36,372	37,068
1944	33,372	34,608	36,192	37,320	38,040
1945	34,080	35,364	37,008	38,196	38,952
1946	34,752	36,096	37,812	39,048	39,828
1947	35,400	36,792	38,568	39,852	40,680
1948	36,012	37,452	39,300	40,632	41,496
1949	36,588	38,076	39,996	41,388	42,276
1950	37,008	38,556	40,536	41,976	42,900
1951	37,344	38,940	41,004	42,492	43,452
1952	37,584	39,228	41,352	42,900	43,884
1953	37,740	39,432	41,628	43,224	44,244
1954	37,800	39,540	41,808	43,452	44,520
1955		39,600	41,928	43,620	44,724
1956			42,000	43,740	44,880
1957				43,800	44,964
1958					45,000
or later					

PIA AMOUNTS ARE COMPUTED USING - 1984 FUTURE EARNINGS - 0.02 CPI AFTER 1984 - 1984 SOCIAL SECURITY LAW - .005 DEDUCT IN EARNINGS INDEX										SOCIAL SECURITY ACCRUED AT CURRENT AGE (ASSUMED PAYABLE AT AGE 65)										.5 M/A 65 PAGE 13 TABLE 1 OF 2	
MONTHLY SALARY IN 1984										SALARY SCALE M/A											
NTS	200	300	400	500	600	700	800	900	1000	1100	1200	1300	1400	1500	1600	1700	1800	1900	2000	2100	2200
1919	127	233	243	254	265	276	287	298	309	320	331	342	353	364	375	386	397	408	419	430	441
1920	128	234	244	255	266	277	288	299	310	321	332	343	354	365	376	387	398	409	420	431	442
1921	129	235	245	256	267	278	289	300	311	322	333	344	355	366	377	388	399	410	421	432	443
1922	130	236	246	257	268	279	290	301	312	323	334	345	356	367	378	389	400	411	422	433	444
1923	131	237	247	258	269	280	291	302	313	324	335	346	357	368	379	390	401	412	423	434	445
1924	132	238	248	259	270	281	292	303	314	325	336	347	358	369	380	391	402	413	424	435	446
1925	133	239	249	260	271	282	293	304	315	326	337	348	359	370	381	392	403	414	425	436	447
1926	134	240	250	261	272	283	294	305	316	327	338	349	360	371	382	393	404	415	426	437	448
1927	135	241	251	262	273	284	295	306	317	328	339	350	361	372	383	394	405	416	427	438	449
1928	136	242	252	263	274	285	296	307	318	329	340	351	362	373	384	395	406	417	428	439	450
1929	137	243	253	264	275	286	297	308	319	330	341	352	363	374	385	396	407	418	429	440	451
1930	138	244	254	265	276	287	298	309	320	331	342	353	364	375	386	397	408	419	430	441	452
1931	139	245	255	266	277	288	299	310	321	332	343	354	365	376	387	398	409	420	431	442	453
1932	140	246	256	267	278	289	300	311	322	333	344	355	366	377	388	399	410	421	432	443	454
1933	141	247	257	268	279	290	301	312	323	334	345	356	367	378	389	400	411	422	433	444	455
1934	142	248	258	269	280	291	302	313	324	335	346	357	368	379	390	401	412	423	434	445	456
1935	143	249	259	270	281	292	303	314	325	336	347	358	369	380	391	402	413	424	435	446	457
1936	144	250	260	271	282	293	304	315	326	337	348	359	370	381	392	403	414	425	436	447	458
1937	145	251	261	272	283	294	305	316	327	338	349	360	371	382	393	404	415	426	437	448	459
1938	146	252	262	273	284	295	306	317	328	339	350	361	372	383	394	405	416	427	438	449	460
1939	147	253	263	274	285	296	307	318	329	340	351	362	373	384	395	406	417	428	439	450	461
1940	148	254	264	275	286	297	308	319	330	341	352	363	374	385	396	407	418	429	440	451	462
1941	149	255	265	276	287	298	309	320	331	342	353	364	375	386	397	408	419	430	441	452	463
1942	150	256	266	277	288	299	310	321	332	343	354	365	376	387	398	409	420	431	442	453	464
1943	151	257	267	278	289	300	311	322	333	344	355	366	377	388	399	410	421	432	443	454	465
1944	152	258	268	279	290	301	312	323	334	345	356	367	378	389	400	411	422	433	444	455	466
1945	153	259	269	280	291	302	313	324	335	346	357	368	379	390	401	412	423	434	445	456	467
1946	154	260	270	281	292	303	314	325	336	347	358	369	380	391	402	413	424	435	446	457	468
1947	155	261	271	282	293	304	315	326	337	348	359	370	381	392	403	414	425	436	447	458	469
1948	156	262	272	283	294	305	316	327	338	349	360	371	382	393	404	415	426	437	448	459	470
1949	157	263	273	284	295	306	317	328	339	350	361	372	383	394	405	416	427	438	449	460	471
1950	158	264	274	285	296	307	318	329	340	351	362	373	384	395	406	417	428	439	450	461	472
1951	159	265	275	286	297	308	319	330	341	352	363	374	385	396	407	418	429	440	451	462	473
1952	160	266	276	287	298	309	320	331	342	353	364	375	386	397	408	419	430	441	452	463	474
1953	161	267	277	288	299	310	321	332	343	354	365	376	387	398	409	420	431	442	453	464	475
1954	162	268	278	289	300	311	322	333	344	355	366	377	388	399	410	421	432	443	454	465	476
1955	163	269	279	290	301	312	323	334	345	356	367	378	389	400	411	422	433	444	455	466	477
1956	164	270	280	291	302	313	324	335	346	357	368	379	390	401	412	423	434	445	456	467	478
1957	165	271	281	292	303	314	325	336	347	358	369	380	391	402	413	424	435	446	457	468	479
1958	166	272	282	293	304	315	326	337	348	359	370	381	392	403	414	425	436	447	458	469	480
1959	167	273	283	294	305	316	327	338	349	360	371	382	393	404	415	426	437	448	459	470	481
1960	168	274	284	295	306	317	328	339	350	361	372	383	394	405	416	427	438	449	460	471	482
1961	169	275	285	296	307	318	329	340	351	362	373	384	395	406	417	428	439	450	461	472	483
1962	170	276	286	297	308	319	330	341	352	363	374	385	396	407	418	429	440	451	462	473	484
1963	171	277	287	298	309	320	331	342	353	364	375	386	397	408	419	430	441	452	463	474	485
1964	172	278	288	299	310	321	332	343	354	365	376	387	398	409	420	431	442	453	464	475	486
1965	173	279	289	300	311	322	333	344	355	366	377	388	399	410	421	432	443	454	465	476	487
1966	174	280	290	301	312	323	334	345	356	367	378	389	400	411	422	433	444	455	466	477	488
1967	175	281	291	302	313	324	335	346	357	368	379	390	401	412	423	434	445	456	467	478	489
1968	176	282	292	303	314	325	336	347	358	369	380	391	402	413	424	435	446	457	468	479	490
1969	177	283	293	304	315	326	337	348	359	370	381	392	403	414	425	436	447	458	469	480	491
1970	178	284	294	305	316	327	338	349	360	371	382	393	404	415	426	437	448	459	470	481	492
1971	179	285	295	306	317	328	339	350	361	372	383	394	405	416	427	438	449	460	471	482	493
1972	180	286	296	307	318	329	340	351	362	373	384	395	406	417	428	439	450	461	472	483	494
1973	181	287	297	308	319	330	341	352	363	374	385	396	407	418	429	440	451	462	473	484	495
1974	182	288	298	309	320	331	342	353	364	375	386	397	408	419	430	441	452	463	474	485	496
1975	183	289	299	310	321	332	343	354	365	376	387	398	409	420	431	442	453	464	475	486	497
1976	184	290	300	311	322	333	344	355	366	377	388	399	410	421	432	443	454	465	476	487	498
1977	185	291	301	312	323	334	345	356	367	378	389	400	411	422	433	444	455	466	477	488	499
1978	186	292	302	313	324	335	346	357	368	379	390	401	412	423	434	445	456	467	478	489	500
1979	187	293	303	314	325	336	347	358	369	380	391	402	413	424	435	446	457	468	479	490	501
1980	188	294	304	315	326	337	348	359	370	381	392	403	414	425	436	447	458	469	480	491	502
1981	189	295	305	316	327	338	349	360	371	382	393	404	415	426	437	448	459	470	481	492	503
1982	190	296	306	317	328	339	350	361	372	383	394	405	416	427	438	449	460	471	482	493	504
1983	191	297	307	318	329	340	351	362	373	384	395	406	417	428	439	450	461	472	483	494	505
1984	192	298	308	319	330	341	352	363	374	385	396	407	418	429	440	451	462	473	484	495	506
1985	193	299	309	320	331	342	353</														





**1984 COVERED COMPENSATION**

<i>Year Reaching Age 55 (Level 1)</i>	<i>Break</i>
<i>Year Reaching Age 65 (Level 2)</i>	<i>Line</i>
1984	12840.
1985	13800.
1986	14688.
1987	15516.
1988	16294.
1989	17004.
1990	17676.
1991	18300.
1992	18888.
1993	19452.
1994	19968.
1995	20916.
1996	21852.
1997	22800.
1998	23748.
1999	24684.
2000	25632.
2001	26568.
2002	27468.
2003	28356.
2004	29208.
2005	30072.
2006	30924.
2007	31788.
2008	32604.
2009	33372.
2010	34080.
2011	34752.
2012	35400.
2013	36012.
2014	36568.
2015	37008.
2016	37344.
2017	37584.
2018	37740.
2019	37800.

**Appendix "B"**  
**Early Retirement Reduction Factors**

*Level I    Level II*

55—100%	65—100%
54— 97%	64— 97%

53— 94%	63— 94%
52— 91%	62— 91%
51— 88%	61— 88%
50— 85%	60— 85%
49— 82%	59— 82%
48— 79%	58— 79%
47— 76%	57— 76%
46— 73%	56— 73%
45— 70%	55— 70%

(Ord. No. 4106, 11/14/84, Sec. 1)

**Appendix "C"**  
**Calculation of Benefits Under**  
**Social Security Option**

The following tables should be used to determine the social security adjustment option benefit. The benefit is an increased monthly benefit payable from retirement date to the commencement of social security, and decreased benefits after such date. The amount of the increased benefit is equal to (a) the monthly benefit the participant would have received at that retirement age, plus (b) his social security amount multiplied by a percentage from Table A-1. If the above amount so determined is less than the participant's social security amount, then the increased benefit is equal to (a) the monthly benefit the participant would have received at that retirement age, multiplied by (b) the appropriate percentage from Table A-2. It should be noted that the participants' expected social security benefit will be determined from tables supplied by the provider. The following examples illustrate how these tables should be applied for both general employees and policemen/firemen.

**Example 1:**

Policemen/firemen

Normal retirement age: 55

Actual retirement age: 55

Monthly benefit at NRA: \$500

Estimated primary social security amount at age 62: \$475

Social security commencement date: At age 62

Increased benefit up to age 62:  $\$500 + (.628) \$475 = \$798$

Reduced benefit after age 62:  $\$798 - \$475 = \$323$  \*\*

\* Early retirement factor

\*\*The reduced benefit at age 62 will be adjusted with the same percentage COLA increases that occurred from actual retirement.

TABLE A-1 GOES HERE

TABLE A-2 FOLLOWS

**Appendix "D"**

Pre-retirement Death Benefits Table Goes here

Marietta City Code

**TABLE A-2**  
Social Security Adjustment Option

**Table A-1**  
Social Security Adjustment Option

<i>Number of Years Retirement Precedes Social Security Date</i>	<i>Percentage (Social Security) at age 65)</i>	<i>Percentage (Social Security) at age 62)</i>
0	100.0	100.0
1	93.3	94.0
2	86.6	87.9
3	80.0	81.8
4	73.3	75.4
5	66.7	69.1
6	63.3	65.9
7	60.0	62.8
8	56.7	59.7
9	53.3	56.4
10	50.0	53.1
11	47.7	50.9
12	45.2	48.4
13	42.3	45.5
14	38.9	42.0
15	36.7	39.7
16	35.4	38.5
17	34.1	37.2
18	32.6	35.6
19	31.1	34.1
20	29.6	32.5

<i>Number of Years Retirement Precedes Social Security Date</i>	<i>Percentage (Social Security) at age 65)</i>	<i>Percentage (Social Security) at age 62)</i>
1	1500%	1667%
2	750	826
3	500	549
4	375	407
5	300	324
6	272	293
7	250	269
8	221	248
9	214	229
10	200	213
11	191	204
12	182	194
13	173	183
14	164	172
15	158	166
16	155	163
17	152	159
18	148	155
19	145	152
20	142	148

# Appendix "D"

## Pre-retirement Death Benefits General Employees/Elected Officials

Age of Beneficiary	Factor	Age of Beneficiary	Factor	Age of Beneficiary	Factor	Age of Beneficiary	Factor	Age of Beneficiary	Factor
1	0.40420	21	0.44648	41	0.55914	61	0.87848	81	1.97983
2	0.40557	22	0.44982	42	0.56830	62	0.90617	82	2.08553
3	0.40699	23	0.45333	43	0.57794	63	0.93559	83	2.19907
4	0.40845	24	0.45703	44	0.50808	64	0.96683	84	2.32163
5	0.40997	25	0.46093	45	0.50877	65	1.00000	85	2.45480
6	0.41157	26	0.46502	46	0.61003	66	1.03517	86	2.59968
7	0.41324	27	0.46933	47	0.62189	67	1.07240	87	2.75752
8	0.41499	28	0.47386	48	0.63438	68	1.11190	88	2.92965
9	0.41681	29	0.47865	49	0.64754	69	1.15403	89	3.11769
10	0.41872	30	0.48367	50	0.66142	70	1.19923	90	3.32329
11	0.42071	31	0.48895	51	0.67607	71	1.24777	91	3.54819
12	0.42279	32	0.49450	52	0.69154	72	1.29994	92	3.79409
13	0.42497	33	0.50033	53	0.70785	73	1.35607	93	4.06216
14	0.42724	34	0.50648	54	0.72508	74	1.41632	94	4.35826
15	0.42962	35	0.51294	55	0.74331	75	1.48098	95	4.68482
16	0.43211	36	0.51971	56	0.76264	76	1.55031	96	5.04575
17	0.43471	37	0.52683	57	0.78314	77	1.62457	97	5.44460
18	0.43744	38	0.53431	58	0.80488	78	1.70391	98	5.88422
19	0.44031	39	0.54217	59	0.82793	79	1.78932	99	6.37435
20	0.44332	40	0.55044	60	0.85243	80	1.88118	100	6.92880

Assumed normal retirement age is 65 and employee assumed age 65 at death.

## Policemen/Firemen

Age of Beneficiary	Factor	Age of Beneficiary	Factor	Age of Beneficiary	Factor	Age of Beneficiary	Factor	Age of Beneficiary	Factor
1	0.54378	21	0.60067	41	0.75223	61	1.18185	81	2.66353
2	0.54563	22	0.60515	42	0.76455	62	1.21910	82	2.80573
3	0.54753	23	0.60988	43	0.77752	63	1.25868	83	2.95847
4	0.54950	24	0.61486	44	0.79116	64	1.30071	84	3.12336
5	0.55154	25	0.62010	45	0.80554	65	1.34533	85	3.30251
6	0.55370	26	0.62560	46	0.82069	66	1.39265	86	3.49744
7	0.55595	27	0.63140	47	0.83665	67	1.44273	87	3.70977
8	0.55830	28	0.63750	48	0.85345	68	1.49587	88	3.94135
9	0.56075	29	0.64394	49	0.87115	69	1.55255	89	4.19433
10	0.56331	30	0.65070	50	0.88983	70	1.61337	90	4.47092
11	0.56599	31	0.65780	51	0.90954	71	1.67866	91	4.77349
12	0.56879	32	0.66526	52	0.93035	72	1.74885	92	5.10431
13	0.57172	33	0.67312	53	0.95229	73	1.82436	93	5.46535
14	0.57478	34	0.68139	54	0.97548	74	1.90542	94	5.86330
15	0.57798	35	0.69007	55	1.00000	75	1.99241	95	6.30264
16	0.58133	36	0.69919	56	1.02600	76	2.08569	96	6.78820
17	0.58483	37	0.70877	57	1.05358	77	2.18559	97	7.32479
18	0.58850	38	0.71883	58	1.08283	78	2.29233	98	7.91623
19	0.59236	39	0.72940	59	1.11384	79	2.40723	99	8.57561
20	0.59641	40	0.74053	60	1.14680	80	2.53080	100	9.32153

Assumed normal retirement age is 55 and employee assumed age 55 at death.

(Ord. No. 4485, 7/9/86, Sec. 1; Ord. No. 4653, 7/13/88, Sec. 1

Amendment Note: Appendix D was deleted by Ord. No. 4485, 7/9/86, and subsequently reinstated by Ord. No. 4653, 7/13/88.

(Ord. No. 4485, 7/9/86, Sec. 1; Ord. No. 4653, 7/13/88, Sec. 1)

**Amendment Note:** Appendix D was deleted by Ord. No. 4485, 7/9/86, and subsequently reinstated by Ord. No. 4653, 7/13/88.

**Appendix "E"  
Death Benefit Factors**

<i>Retirement Age</i>	<i>Number of Monthly Payments Expected to be Received</i>
56	184.53
57	179.70
58	174.85
59	169.98
60	165.09
61	160.10
62	155.30
63	150.42
64	145.56
65	140.73
66	135.95
67	131.23
68	126.57
69	121.95
70	117.35

**APPENDIX F  
LATE RETIREMENT INCREASE FACTORS**

<b>GENERAL EMPLOYEE</b>		<b>POLICE OFFICER/FIREFIGHTER</b>	
66	109.08%	56	106.64%
67	119.36%	57	113.92%
68	131.04%	58	121.91%
69	144.36%	59	130.72%
70	159.64%	60	140.44%
		61	151.24%
		62	163.26%
		63	176.67%
		64	191.68%
		65	208.51%
		66	227.45%
		67	248.88%
		68	273.23%
		69	301.01%
		70	332.87%

**Calculation of Death Benefits:**

The above table should be used to determine the number of monthly payments any designated beneficiary should receive under article VII, section 2.

If the participant is 56 years of age or older at the time of death, and has already received monthly retirement benefits, the number of monthly retirement benefits received prior to death shall be deducted from the total number of monthly payments expected to be received at retirement age. The remaining number will represent the total number of monthly benefits for the designated beneficiary.

For purposes of calculating benefits under this table, any participant shall be deemed to be not less than 56 years of age at retirement, regardless of when the participant actually retired or became eligible for any retirement benefits. However, in the event the actual age of the participant is less than 56 at retirement, there shall be no deduction for monthly payments actually received by the participant.

Notwithstanding the table set forth in this Appendix "E", any designated beneficiary shall receive a minimum of 24 monthly death benefits following the death of the retiree.

**Example:** If a participant retires at age 61, his expected number of monthly retirement benefits is 160.10. This figure is rounded off to 160 and represents the total number of monthly payments the participant is expected to receive at retirement. If the participant dies after 8 years and 5 months (101 payments), the designated beneficiary would receive the remaining number of monthly benefits, same being 59 months (160 - 101 = 59). (Ord. No. 4084, 9/12/84, Sec. 1; Ord. No. 4485, 7/9/86, Sec. 1; Ord. No. 4653, 7/13/88, Sec. 1 (Exhibit D))

**Amendment Note:** Appendix E was added by Ord. No. 4084, 9/12/84. Such appendix was subsequently deleted by Ord. No. 4485, 7/9/86 and App. E was reinstated by Ord. No. 4653, 7/13/88.

#### **Article 4-12-6 EXHIBIT B TO CHAPTER 4-12**

##### **4-12-6-010 Exhibit B to Chapter 4-12**

##### **Ordinance No: 4532**

*An Ordinance Adopting a Consolidated Retirement plan for the employees of the City of Marietta, Georgia.*

*Now, Therefore, Be It Hereby Ordained by the Mayor and Council of the City of Marietta, Georgia, That:*

**Section 1:** The Consolidated Retirement Plan for the employees of the City of Marietta, Georgia, a copy of which is attached hereto as Exhibit "A" and by reference made a part hereof, is hereby adopted for the employees of the City of Marietta, Georgia, on the following terms and conditions:

A. Each employee hired after March 1, 1987 (the effective date of this Consolidated Retirement Plan) shall be eligible to participate in the Consolidated Retirement Plan as provided for therein. Each new employee hired after March 1, 1987 shall have no right whatsoever to participate or become eligible to participate in the Retirement Plan adopted by Ordinance No. 4022.

B. Each employee that is employed with the City of Marietta, Georgia on March 1, 1987 shall have the right to either remain with the Retirement Plan adopted by Ordinance No. 4022 or elect to participate in the Consolidated Retirement Plan adopted by this Ordinance. Each employee that elects to participate in this Consolidated Retirement Plan shall make said election in writing and shall waive and relinquish any and all rights to participate or receive any benefits from the Retirement Plan adopted by Ordinance No. 4022 as it was originally enacted or any benefits adopted by any amendments to Ordinance No. 4022. The period to make this election shall be for a period of ninety (90) days commencing on March 1, 1987 and ending on May 29, 1987. Any employee that has not elected to participate in the Consolidated Retirement Plan by May 29, 1987 shall automatically remain a participant in the Retirement Plan adopted by Ordinance No. 4022 and shall have no right whatsoever to participate or become eligible to participate in the consolidated Retirement Plan adopted by this Ordinance.

**Section 2:** All Ordinances and parts of Ordinances in conflict with this Ordinance are hereby repealed, except as provided in Section 3.

**Section 3:** The rights and obligations under the Retirement Plan approved September 20, 1973, as amended, with respect to persons whose employment with the City was terminated for any reason whatsoever prior to the effective date of this Ordinance are fixed and shall be governed by such Retirement Plan as it existed and was in effect at the time of such termination.

**Section 4:** The effective date of this Ordinance shall be March 1, 1987.

**DATE:** February 11, 1987

**APPROVED:**  
**/s/ Vicki Chastain**  
**Mayor and Council**

**ATTEST:**  
**/s/ Lillian C. Harris**  
**City Clerk**

**Consolidated Retirement Plan  
for Employees of the City  
of Marietta, Georgia**

**Historical Note:** Exhibit B contains the consolidated retirement plan for city employees adopted by Ord. No. 4532, 2/11/87, and subsequently amended. Amendments have been worked into their prescribed places and are indicated by a history note following the affected section or subsection.

**ARTICLE I**

**Purpose**

This ordinance shall constitute the consolidated retirement plan of the City of Marietta, Georgia for the exclusive benefit of the city employees according to the terms and conditions hereinafter contained; and said ordinance shall be subject to amendment from time to time by the city. The provisions of this plan shall be effective March 1, 1987.

**Summary of Consolidated  
Retirement Plan for the  
Employees of the City  
of Marietta, Georgia**

**Participation**—All current participants will have the option to participate in the new plan or continue to be participants in the existing plan, new participants must meet the eligibility provisions as outlined in the current plan.

**Normal retirement date**—First day of the month following or coincident with the later of the participant's 65th birthday and the completion of 5 years of credited service.

**Early retirement**—Age 55 or more with a minimum of 5 years credited service.

*Disability retirement*—No change from the current plan.

*Special election period*—All current participants have 90 days from the new plan effective date of March 1, 1987 to elect to be covered under the new plan, failure to elect will mean automatic coverage under the current plan.

*Normal retirement pension*—2% times final average earnings.

*Final average earnings*—No change from the current plan.

*85 point pension*—When a participant's age plus credited service total 85, the participant is eligible to begin receiving an unreduced retirement pension—participants whose age is less than 55 that have 85 points will be eligible for an unreduced retirement pension upon reaching age 55.

*Early retirement pension*—The accrued normal retirement pension is reduced by  $\frac{1}{4}$  of 1 percent for each month the participants age at early retirement is less than 65.

*Normal benefit form*—No change from the current plan—lifetime benefit without survivor continuation.

*Benefit form options*—Normal benefit

Social Security option

Joint & survivor option

*Break-in-service pension eligibility*—All future participants that incur a break-in-service will only be entitled to a benefit at their normal retirement date.

## **ARTICLE II**

### **Definitions**

Whenever the terms set forth below are used in this plan, they shall have the meanings indicated below, unless a different meaning is plainly required by the context. Masculine pronouns, when used throughout the plan, shall refer to both men and women, and the singular shall include the plural, unless the context indicates otherwise. Headings of sections are used for convenience of reference, and in the case of conflict, the text of the plan, rather than such headings, shall control.

#### **Section 1. Actuarial present value.**

Unless otherwise specified in the plan, the actuarial present value of a benefit shall be determined using the interest rate prescribed by the pension benefit guaranty corporation for valuing annuities under the single-employer plans that terminate without a notice of sufficiency during the first month of the calendar year in which the date as of which the benefit is valued, occurs. The mortality assumption shall be based on the 1971 Group Annuity Mortality Table, weighted as follows:

- (a) For a participant's benefit, 80% male and 20% female;
- (b) For the benefit of a participant's spouse or former spouse, 20% male and 80% female; and
- (c) In any other case, 50% male and 50% female.

Actuarial equivalence means two benefits of equal actuarial present value based on the factors and assumptions specified in the provisions in which that phrase is used or, if not otherwise specified, based on the assumptions described in this section.

#### **Section 2. Actuary.**

*Actuary* shall mean an actuary who is enrolled under subtitle C of Title III of the Federal Employee Retirement Income Security Act of 1974.

#### **Section 3. Beneficiary.**

*Beneficiary* shall mean the person(s) designated by the participant to receive any death benefits. For purposes of this definition, "person" shall include only a natural person(s) and shall not include a corporation, estate or other such entity.



**Section 4. City.**

*City* shall mean the City of Marietta, Georgia.

**Section 5. Credited service.**

*Credited service* shall mean the years of credit for work with an employer which is used to determine the amount of benefits payable under this plan, including past credited service, for work prior to November 1, 1973 and future credited service, for work after November 1, 1973.

**Section 6. Disability.**

A participant will be considered disabled if unable, solely because of disease or accidental bodily injury, to work at his or her own occupation or at any reasonable occupation for which the participant may be engaged, or may reasonably become engaged, fitted by education, training or experience provided, however, that such disability shall not have been (a) self-inflicted; (b) incurred in military service; (c) incurred in the commission of a felonious enterprise; or (d) the result of the use of narcotics and/or drugs and/or alcohol.

**Section 7. Early retirement age.**

*Early retirement age* shall mean the date a participant attains age fifty-five (55) and has completed at least five (5) years of credited service.

**Section 8. Earnings.**

*Earnings* shall mean the total compensation paid to an employee of the city for service rendered, but shall exclude compensation for overtime and reimbursed expenses. Earnings shall include holiday and vacation pay and payments made by the city on behalf of an employee during periods of authorized absence for illness and other reasons.

**Section 9. Effective date.**

*Effective date* shall mean March 1, 1987 for the purpose of this consolidated plan.

**Section 10. Full-time employee.**

*Full-time employee* shall mean a person who is regularly employed for at least thirty (30) hours per week in the services of the city and Marietta Board of Lights and Water, or any person who is an elected or appointed member of the governing authority.

The term full-time employee shall not include:

- (a) Employees, other than elected and appointed members of the governing authority, who regularly work less than thirty (30) hours per week in the service of the city;
- (b) Any person employed by the city to perform scientific, technical, engineering, accounting, legal, or similar expert services in a consulting capacity;
- (c) Any person employed for less than five (5) months in any year or on a retainer contract or fee basis; or
- (d) City solicitor and chief judge—Municipal court for the City.

(Ord. No. 4905, 6/12/91, Sec. 1)

**Section 11. Employer.**

*Employer* shall mean the City of Marietta, Georgia.

**Section 12. Final average earnings.**

*Final average earnings* shall mean the average monthly earnings paid to a participant during the thirty-six (36) full months preceding his actual date of retirement in which his earnings were highest.

**Section 13. Governing authority.**

*Governing authority* shall mean the mayor and council of the City of Marietta, Georgia.

**Section 14. Investment manager.**

*Investment manager* shall mean a person or company who:

- (a) has the power to manage, acquire, or dispose of any asset of the plan;
- (b) who is
  - (1) registered as an investment adviser under the Investment Advisers Act of 1940;
  - (2) is a bank, as defined in that act; or
  - (3) is an insurance company qualified to perform services described in subparagraph (a) under the laws of more than one state; and
- (c) has acknowledged in writing that it is a fiduciary with respect to the plan.

**Section 15. Normal retirement age.**

*Normal retirement age* shall mean the date a participant attains age sixty-five (65) and has completed at least five (5) years of credited service.

**Section 16. Normal retirement date.**

*Normal retirement date* shall mean the first day of the month coinciding with or next following the participant's normal retirement age.

**Section 17. OASDI.**

*OASDI* shall mean the Old-Age and Survivors Disability Insurance program under the Social Security Act or the successor act as further amended.

**Section 18. Participant.**

*Participant* shall mean an employee who meets the requirements for participation in the plan as set forth in section 1 of article III.

**Section 19. Plan.**

*Plan* shall mean the Consolidated Retirement Plan for Employees of the City of Marietta, Georgia.

**Section 20. Plan year.**

*Plan year* shall mean the period of twelve consecutive months commencing on July 1 and ending on June 30.

**Section 21. Pension board.**

*Pension board* shall mean the board appointed or elected by the city on this ordinance to represent the city in the administration of the plan hereby established.

**Section 22. Retired participant.**

*Retired participant* shall mean any participant who has qualified for retirement under any provision of the plan and is entitled to receive any pension provided under the plan.

**Section 23. Retirement.**

*Retirement* shall mean withdrawal from service from the city and the participant is eligible for benefits under this plan.

**Section 24. Service.**

*Service* shall mean regular service rendered as an employee of the city. Service includes absence from active employment with the city under conditions which are not treated by it as a termination of employment. However, service shall not include accrued but unused annual leave of the employee. Service also means any tenure of elective office held by an elected or appointed member of the governing authority provided that such tenure of elective office does not include any calendar period during which any elected or appointed member of the governing authority is also in the regular service of the city as a full-time employee.

**Section 25. Terminated participant.**

*Terminated participant* shall mean employees withdrawn from service, who are entitled to a vested benefit under the provisions of this plan.

**Section 26. Trust fund.**

*Trust fund* shall mean the total amount invested or uninvested, held at any time in trust for the city under any trust agreement, pension or investment contract.

**Section 27. Part-time employee.**

*Part-time employee* shall mean a person who is regularly employed for less than thirty (30) hours per week in the services of the city and Marietta Board of Lights and Water.  
(Ord. No. 4905, 6/12/91, Sec. 2)

**Section 28. Seasonal employee.**

*Seasonal employee* shall mean a person who is regularly employed for at least thirty (30) hours per week for less than five (5) months in any year.  
(Ord. No. 4905, 6/12/91, Sec. 2)

**Section 29. Temporary employee.**

*Temporary employee* shall mean a person who performs services under a contractual agreement for a duration not exceeding two (2) years.  
(Ord. No. 4905, 6/12/91, Sec. 2)

**ARTICLE III  
Participation**

**Section 1. Eligibility for participation.**

Each employee who is employed by the city on March 1, 1987 and who elected to participate in the plan shall become a participant in this plan on the effective date, provided he is then in active service with the employer or on an authorized leave of absence.

Each new employee hired after July 1, 1990 shall become a participant in the plan at the alter of July 1, 1991 or the first day of the month coinciding with or next following his date of employment.

Each elected or appointed member of the governing authority who holds an elected office of the city on the effective date of this plan shall become a participant on that date.

Each elected or appointed member of the governing authority who holds an elective office of the city subsequent to the effective date of this plan shall become a participant on the first day of the month coinciding with or next following the date he completes one (1) year of service.

Participation in the plan shall not give any employee the right to be retained in the employ of the city nor, upon dismissal, to have any right or interest in the fund other than is herein provided.

A full-time contract employee may elect, in writing, not to participate in the plan. However, once such an election is made, he may not change the election at a later time to again participate in the plan.  
(Ord. No. 4905, 6/12/91, Sec. 5)

**Section 2. Termination of participation.**

Participation shall be deemed to be terminated as of the date of quit, resignation or discharge, by lapse of recall rights after layoff, by ceasing to be an eligible employee as defined herein or by failure to return to service as an eligible employee at the end of an approved leave of absence.

For elected or appointed members of the governing authority, participation shall be deemed to be terminated on the date such person vacates his elected office.

A participant shall become a former participant when his employment terminates otherwise than by retirement, provided he has earned a vested percentage in his accrued benefit.

**Section 3. Reinstatement of participation.**

An employee who has lost his status as a participant in accordance with section 3(2) of this article shall again become a participant as of the first day of the month following the date he is reemployed.

**ARTICLE IV  
Contributions****Section 1. City contributions.**

The city shall make the necessary contributions to fund this retirement plan. The amount of these contributions shall be based upon the mortality tables adopted by the actuary, the benefits provided in the plan, and the number of participants and their respective ages, earnings and lengths of creditable service and such other factors as the actuary shall deem appropriate to properly fund this plan. All contributions by the city shall be used only for the benefit of the participants and eligible beneficiaries. City contributions shall be collected and remitted to the investment manager as required.

**Section 2. Prospective benefit change.**

The employer may at its discretion elect to modify the prospective plan benefits by amendment in the event that the required contribution as determined under section 1 of this article is 14.39% or more of covered payroll or 11.78% or less of covered payroll for any single year. The prospective plan benefits may be modified in the event the required contribution level is outside the range as outlined above during a single year for any reason, including but not limited to the addition or reinstatement of any statutory or court mandated benefits, whether related to this plan or the retirement plan adopted by Ordinance 4022 as amended, any financial or other experience, or any other unforeseen events. In addition, the prospective plan benefits may be modified in the event that OASDI benefits are reinstated for all employees. Covered payroll shall mean the total annual earnings of all participants in the plan as reported by the city to the actuary for the most recent actuarial valuation of the plan.

**ARTICLE V  
Eligibility for Benefits and Amounts****Section 1. Eligibility for a normal  
retirement benefit.**

A participant shall be eligible to retire on a normal retirement benefit upon the later of:

- A. attainment of age sixty-five (65), or
- B. completion of five (5) years of credited service.

Elected or appointed members of the governing authority shall be eligible to retire on a normal retirement benefit upon attainment of age sixty-five (65), and completion of five (5) years of credited service. However commencement of benefits shall be delayed until the first day of the month coinciding with or next following the date he vacates such elective office.

**Section 2. Amount of normal retirement benefit.**

The monthly amount of the normal retirement benefit shall be equal to 2% or the percentage as revised in accordance with article IV, section 2 of the participant's final average earnings multiplied by the years of credited service which he has completed (up to a maximum of 35 years of credited service).

The monthly amount of normal retirement benefit for an elected or appointed member of the governing authority, exclusive of any other periods of service as an eligible employee, shall be \$20.00 multiplied by the number of full years of credited service and any major fraction thereof.

**Section 3. Eligibility for an early retirement benefit.**

A participant shall be eligible to retire on the first day of any month following his attainment of age fifty-five (55), provided he has completed at least five (5) years of credited service.

**Section 4. Amount of early retirement benefit.**

The monthly amount of the early retirement benefit shall be equal to the benefit determined in section 2 of this article, reduced by one-quarter of one percent ( $\frac{1}{4}$  of 1%) for each month by which the participant is younger than sixty-five (65) on the effective date of his early retirement.

**Section 5. Eligibility for an unreduced early retirement benefit.**

A participant shall be eligible to retire on an unreduced early retirement benefit, provided he is at least age fifty-five (55) and the sum of his age plus credited service equals at least eighty-five (85).

**Section 6. Amount of unreduced early retirement benefit.**

The monthly amount of the unreduced early retirement benefit shall be equal to the benefit determined in accordance with section 2 of this article.

**Section 7. Eligibility for a late retirement benefit.**

A participant whose employment with the employer continues after his normal retirement date will receive a late retirement benefit commencing on the first day of the month following the month in which his employment ceases.

**Section 8. Amount of late retirement benefit.**

The monthly amount of the late retirement benefit shall be equal to the benefit determined in section 2 of this article.

**Section 9. Eligibility for a vested retirement benefit.**

A terminated participant shall be eligible to retire and receive a vested retirement benefit if his employment with the employer terminates voluntarily or involuntarily for any reason other than death, normal, early, or disability retirement, provided he has completed at least five (5) years of credited service.

A participant whose employment is terminated voluntarily or involuntarily because he is disabled shall be entitled to a vested benefit provided he qualifies for a disability retirement, (in accordance with section 11 of this article), within one (1) year of termination of employment.

Benefits shall commence on the first day of the month in which the terminated participant attains his normal retirement date. If an employee is a participant in the plan on March 1, 1987, and later terminates his employment with the employer, he shall be eligible to retire and commence receiving benefits on the first day of any month following his attainment of age fifty-five (55), provided he has completed at least five (5) years of credited service.

In the event a participant is involuntarily terminated for reasons other than willful misconduct, he shall be eligible to retire at any time after attaining his early retirement date, provided he has at least twenty (20) years of credited service on the date he terminates his employment.

**Section 10. Amount of vested retirement benefit.**

The monthly amount of the vested retirement benefit shall be equal to benefit determined in section 2 of this article, based on the benefit rate in effect at the time the former participant terminated his employment.

**Section 11. Eligibility for a disability retirement benefit.**

A participant shall be eligible to retire on a disability retirement benefit if he becomes disabled, as defined in section 6 of article II. If the disability is non-job related, the participant must have completed at least twelve (12) months of continuous service.

**Section 12. Amount of disability retirement benefit.**

The monthly amount of the disability retirement benefit shall be determined in accordance with section 2 of this article. In no event, however, shall the benefit be less than fifty percent (50%) of the participant's average monthly earnings for the twelve (12) month period immediately preceding his termination of employment as a result of a disability (or the average monthly earnings for the actual number of months worked, if less than twelve (12)).

**Section 13. Evidence of disability.**

Upon receipt and acceptance for disability retirement by the pension board, the applicant must furnish such evidence of disability in writing on a form provided by the city to substantiate a claim of disability as set forth in the definition of disability established in section 6 of article II. The pension board may request such additional evidence as it deems necessary to substantiate a disability claim including additional examination by an independent physician of its choice. The cost of such additional examination shall be paid by the employer.

**Section 14. Termination of disability retirement benefit.**

A period of total disability ceases on the earliest of the following dates:

- A. The date the participant ceases to be totally disabled;
- B. The date the participant commences work at a reasonable occupation for which the employee may be engaged or may reasonably become engaged, fitted by education, training or experience;
- C. The date the participant fails to furnish proof of the continuance of total disability or refuses to be examined when required;
- D. The date the participant ceases to be under the care of a physician, or
- E. The date of the participant's death.

**Section 15. Successive period of disability.**

Notwithstanding the fact that a participant may initially be determined disabled, and subsequently have disability retirement benefits terminated because of the occurrence of any event set forth in section 14 of this

article, said participant may continue to be eligible for a successive period of disability benefits, if the participant is later determined disabled again as provided under section 13 of this article. The purpose of the successive disabilities rule is to encourage the participant to return to full-time work by assuring if the disability occurs again due to the same or related cause soon after returning to work, the participant will not have to complete a new qualifying period in order to qualify for benefits.

**Section 16.      Definition of physician.**

The term "physician" means a legally qualified physician, except that with respect to a period of total disability, or any portion thereof, during which total disability is caused by any condition other than a medically determinable physical impairment, "physician" shall mean a legally qualified physician who either specializes in the practice of psychiatric medicine or has by reason of training or experience, a specialized competency in the field of psychiatric medicine sufficient to render the necessary evaluation and treatment of mental illness.

**Section 17.      Non-duplication of benefits.**

Nothing contained in this plan shall be construed as permitting any person to be entitled to more than one type of benefit under this plan or change the type of benefit elected once he has begun to receive benefit payments, unless otherwise specified in this plan.

**Section 18.      Return to employment after retirement.**

A.      *Employment in the same capacity.* Any retirement benefit payable under this plan to any participant who has retired and commenced receiving benefits, shall be suspended as of the month in which he is reemployed as an eligible employee by the employer. Benefits shall be resumed as of the first day of the month coinciding with or next following his subsequent retirement; said benefits shall be recalculated in accordance with this article on the basis of his aggregate credited service and final average earnings at the time of his subsequent retirement, but reduced on an actuarial basis by the value of any early retirement benefits received prior to being reemployed, provided that the resulting benefit shall not be less than the benefit payable at the time of this previous retirement.

B.      *Election or appointment to the governing authority.* If a participant is elected or appointed as a member of the governing authority after he has retired from employment in another capacity under this plan, he shall be eligible to earn credited service, after he has met the participation requirements for elected or appointed officials, as set forth in section 1 of article III. He shall be eligible to receive a normal retirement benefit as an elected or appointed official provided he has met the requirements as set forth in section 1 of article V. During the period in which said participant is holding an elected or appointed office with the governing authority, he shall continue to receive retirement benefits previously awarded under the plan, however, such benefits shall not be recalculated as a result of his employment as an elected or appointed official.

C.      *Disability retirement.* Any disability retirement benefit payable under this plan to any participant who shall have retired or been retired pursuant to any provision of section 2 of article V shall be suspended as of the date his disability ceases. In any case where the payment of a participant's disability retirement pension shall have been so suspended, said period of absence from employment due to such disability shall be treated as a leave of absence without pay, but shall not be counted toward future service. Any participant who shall have retired or been retired pursuant to the provisions of section 11 of article V and who does or who has been or shall be subsequently declared ineligible for a disability retirement benefit because of a cessation of said disability shall have a right to any benefit afforded under any other provision of this plan to which he might otherwise be entitled. In such a case any disability retirement payments made prior to the date his disability ceases or is declared to no longer exist shall be retained by the participant and disregarded in computing any other benefit payable under this plan.

**ARTICLE VI**

**Crediting of Service and Break In Service**

**Section 1. General.**

Service and credited service shall be granted to a participant for the purpose of determining such participant's vested percentage of his accrued benefit and for computing the amount of benefits payable under this plan.

**Section 2. Past service.**

A participant shall be entitled to receive past service and past credited service for the number of years and full months of continuous employment with the employer prior to November 1, 1973. Past service shall also be granted for any tenure of elected office of an elected or appointed member of the governing authority who was serving as an eligible employee or an elected or appointed official, or both, on November 1, 1973. Otherwise, past service shall not include any tenure of elective office as an elected or appointed member of the governing authority.

**Section 3. Future service.**

A participant shall earn future service and future credited service for the number of years and full months of continuous employment with the employer on and after November 1, 1973.

Elective or appointed members of the governing authority shall earn future service and future credited service for all periods of elected office, whether or not successive, however any break in his tenure of elective office will not be considered as a period of future service or future credited service.

**Section 4. Break in service.**

A participant will incur a break in service upon his termination of employment with the employer. A participant who is vested upon termination of employment shall be eligible for a vested retirement benefit in accordance with section 9 of article V. A participant who is not vested upon termination of employment shall lose his service and credited service. However, if the participant later returns to work with the employer and earns the number of years required to earn a vested percentage of his accrued benefit, then his previous years of service and credited service shall be restored.

**Section 5. Exceptions to break in service.**

An exception to the break in service provisions shall be allowed and a grace period granted if the participant's failure to earn service is due to:

- A. an employee's absence from service by reason of (1) her pregnancy, (2) birth of a child of the employee, (3) placement of a child with the employee in connection with his or her adoption of the child, or (4) care for such child for a period beginning immediately after such birth or placement. Such absence shall be credited as hours of employment to a maximum of three (3) months for each such pregnancy, childbirth, or placement. The time so credited shall be applied to the plan year in which such absence begins, if doing so will prevent the employee from incurring a break in service in that plan year; otherwise it shall be applied to the next plan year;
- B. the employee's absence for the purpose of involuntary service in the Armed Forces of the United States;



- C. disability, for which the employee is receiving a disability retirement benefit; or
- D. an authorized leave of absence, provided:
  - 1. the individual was regularly employed by the employer immediately prior to his leave of absence;
  - 2. the individual makes application for reemployment on or before the date of expiration of any leave of absence or within ninety (90) days after he first becomes entitled to his discharge from military service; and
  - 3. the individual is reemployed as an eligible employee within ninety (90) days after such application.

**Section 6. Vesting.**

A participant who is a full-time employee and who has completed at least five (5) years of service shall have his credited service vested and the break in service rules as set forth in section 4 of this article shall not operate to deprive him of his accumulated credited service.

Part-time employees, seasonal employees and temporary employees shall become vested immediately upon meeting the requirements for participation in the plan as set forth in section 1 of Article III and the break in service rules shall not operate to deprive them of accumulated credited service.  
(Ord. No. 4905, 6/12/91, Sec. 3)

**ARTICLE VII****Forms of Benefit Payment****Section 1. Normal form of payment.**

The normal form of benefit payment shall be a single life benefit, payable monthly to the retired participant. Benefits will cease as of the month in which the participant's death occurs.

**Section 2. Election of optional retirement benefit.**

A participant may elect, or may revoke said election, at any time prior to his actual retirement date, to have his retirement benefit payable under the options hereinafter set forth, in lieu of the single life benefit he is otherwise entitled to receive. The benefit shall be paid in accordance with the terms of said option. Election of said option shall be made by the participant in writing. The amount of the optional retirement benefit shall be the actuarial equivalent of the amount of benefit that would otherwise be payable to the participant under article V.

**Section 3. Social Security option.**

A participant may elect this option and receive an increased retirement benefit payable to the participant during his lifetime until he is eligible for benefits commenced under O.A.S.D.I. and a decreased retirement benefit payable thereafter for life in order to have a more level retirement income when such decreased retirement benefit is added to his primary benefits under O.A.S.D.I. determined as of his early retirement date; said benefit shall be computed in accordance with the factors set forth below. At the death of the participant all payments will cease and no further benefits shall be payable.

The factors set forth below shall be applied to the assumed O.A.S.D.I. benefit payable at the appropriate age. This amount shall then be added to the monthly benefit determined in accordance with section 4 of article V. When O.A.S.D.I. be reduced by the amount of the assumed O.A.S.D.I. benefits; if this amount results in a negative balance, this option may not be elected

*O.A.S.D.I. Benefits Paid at Age*

<b>AGE</b>	<b>65</b>	<b>62</b>
55	.3670	.5071
56	.4022	.5558
57	.4414	.6101
58	.4853	.6708
59	.5346	.7390
60	.5900	.8156
61	.6525	.9021
62	.7232	n/a
63	.8035	n/a
64	.8951	n/a

**Section 4. Joint and survivor benefit.**

A participant may elect to receive an actuarially reduced monthly retirement benefit with a continuation upon his death after retirement of fifty percent (50%), seventy-five percent (75%) or one hundred percent (100%) of his benefit, to that person he might name as his beneficiary, with the continuation of benefits being for the life of the beneficiary.

The participant's monthly amount shall be a percentage of the full monthly amount otherwise payable as a single life benefit (after adjustment, of any, for early retirement) as follows:

1. *50% joint and survivor option:*
  - a. If the participant's pension is a nondisability retirement—The percentage shall be 88.0% plus 0.4% for each full year that the beneficiary is older than the participant or 88.0% minus 0.4% for each full year that the beneficiary is younger than the participant;
  - b. If the participant's pension is a disability pension—The percentage shall be 77.5% plus 0.4% for each full year that the beneficiary is older than the participant or 77.5% minus 0.4% for each full year that the beneficiary is younger than the participant;
  - c. In no event is the percentage to be greater than 99%; and
2. *75% joint and survivor option:*
  - a. If the participant's pension is a nondisability retirement—The percentage shall be 83.5% plus 0.5% for each full year that the beneficiary is older than the participant or 83.5% minus 0.5% for each full year that the beneficiary is younger than the participant;
  - b. If the participant's pension is a disability pension—The percentage shall be 70.0% plus 0.5% for each full year that the beneficiary is older than the participant or 70.0% minus 0.5% for each full year that the beneficiary is younger than the participant;
  - c. In no event is the percentage to be greater than 99%; and
3. *100% joint and survivor option:*
  - a. If the participant's pension is a nondisability retirement—The percentage shall be 79.0% plus 0.6% for each full year that the beneficiary is older than the participant or 79.0% minus 0.6% for each full year that the beneficiary is younger than the participant;
  - b. If the participant's pension is a disability pension—The percentage shall be 63.0% plus 0.6% for each full year that the beneficiary is older than the participant or 63.0% minus 0.6% for each full year that the beneficiary is younger than the participant;
  - c. In no event is the percentage to be greater than 99%.

**Section 5. Joint and survivor level benefit option.**

A participant may elect to receive the Social Security option (section 3 of this article) and a joint and survivor option (50%, 75% or 100%), (section 4 of this article), so that the participant will receive the increased retirement benefit until he is eligible for benefits to commence under O.A.S.D.I. and the decreased benefit payable thereafter for the remainder of his lifetime. Upon his death, the beneficiary will receive a percentage of the benefit the participant was receiving at the time of his death (50%, 75% or 100%, whichever the participant had elected). However, in the event the participant dies before benefits commence under O.A.S.D.I., the beneficiary will receive a percentage (as elected) of the benefit the participant was receiving at the time of his death until the date he would have been entitled to O.A.S.D.I. benefits, at which time the beneficiary will receive a percentage (as elected) of the benefit the participant would have received.

This option may not be elected if the benefits payable under this plan after the participant commences to receive O.A.S.D.I. benefits, equal an amount less than zero.

The participant's monthly benefit shall be determined as follows:

1. Determine the benefits payable in accordance with section 3 of this article.
2. Determine the base level, which is the benefit payable under this plan after the participant commences to receive O.A.S.D.I. benefits. Determine the supplemental level, which is the benefit payable under this plan prior to the participant's commencement of O.A.S.D.I. benefits, minus the base level.
3. Multiply the joint and survivor option factors (in accordance with section 4 of this article) times the base level.
4. Multiply the supplemental level times the applicable factor below:
  - a. 50% joint and survivor option:  $1 - (.0025 \times \text{the years the supplemental level amount will be paid})$
  - b. 75% joint and survivor option:  $1 - (.0035 \times \text{the years the supplemental level amount will be paid})$
  - c. 100% joint and survivor option:  $1 - (.0045 \times \text{the years the supplemental level amount will be paid})$
5. Add the amounts determined in subsections (3) and (4) of this section; this is the benefit payable to the participant at retirement.
6. The amount determined in subsection (3) of this section is the benefit payable to the participant when he commences to receive O.A.S.D.I. benefits, and shall be payable for the remainder of his lifetime.
7. Upon the participant's death, the beneficiary will receive a monthly benefit equal to a percentage (as elected) of the benefit the participant was receiving. If the participant dies prior to the date O.A.S.D.I. benefits commence, the beneficiary will receive a percentage (as elected) of the benefits the participant was receiving until the date the participant's O.A.S.D.I. benefits would have commenced, at which time the beneficiary will receive a percentage (as elected) of the benefit the participant would have received.

(Ord. No. 4547, 4/8/87, Sec. 1)

**Section 6. Mandatory lump sum cashout.**

If the actuarial present value of a benefit payable under the plan to a vested part-time, seasonal or temporary employee is \$3,500 or less as of the end of the plan year and such employee terminates his employment, the pension board shall distribute in a single sum an amount equal to that value. For this purpose, actuarial present value shall be determined using an interest assumption of 7% and the 1983 group annuity mortality table with a 50% male and 50% female blend. This benefit will be distributed within 120 days of the end of the plan year in which the part time, seasonal or temporary employee terminates his employment.

(Ord. No. 4905, 6/12/91, Sec. 4)

**ARTICLE VIII**

**Maximum Retirement Income Benefits****Section 1. Maximum retirement income benefits.****A. General limit:**

1. Notwithstanding any other provision of this plan, the annual pension payable with respect to any employee shall not exceed \$90,000 (or such higher amount as the IRS may prescribe for a year) or, if lower, 100% of the employee's average compensation in the period of three consecutive calendar years in which his compensation was the highest.
2. This limit shall not apply to any pension that does not exceed \$1,000 a year for each year of service with an employer, including years before the employer adopted this plan, up to a maximum of \$10,000, unless the employee has also been covered by an individual account plan to which an employer contributed on his behalf.
3. The limitations in this section shall be applied as if all employers were a single employer, without distinguishing among them as to the source of an employee's benefits, contributions, earnings or service.

**B. Definitions: For purpose of this section:**

1. "Pension" means an annual benefit payable at age 65 as a straight life annuity with no ancillary benefits, a joint and survivor pension, and a disability pension. A benefit payable in any other form shall be converted to the actuarial equivalent of a straight life annuity, for purpose of applying these limits, based on a 7% interest assumption. Other required adjustments are provided for below.
2. "Compensation" means all earnings and any other taxable compensation received for a year from any employer, or from any company in an employer's controlled group or affiliated service group within the meaning of sections 414(b), (c), or (m) of the Internal Revenue Code.

**C. Adjustments for early or late commencement of benefits:**

1. If benefit payments start before the recipient has reached age 62, the \$90,000 limit in subsection (a)(1) of this section shall be reduced to the actuarial equivalent of a \$90,000 pension beginning at age 62, but not below \$75,000. If benefit payments start before age 55, that dollar limit shall be the actuarial equivalent of a \$75,000 pension starting at age 55. This section shall not apply to a disability pension.
2. If benefit payments start after the recipient has reached age 65, the \$90,000 limit in subsection (a)(1) of this section shall be increased to the actuarial equivalent of a \$90,000 pension starting at age 65.
3. Actuarial equivalence under this section shall be determined using a 5% interest assumption, and the term "\$90,000" shall include any higher amount prescribed by IRS for purposes of these limitations.

**D. Protection of prior benefits:** For any year before 1987, the limitations prescribed by section 415 of the Internal Revenue Code as in effect before enactment of the Tax Equity and Fiscal Responsibility Act of 1982 shall apply, and no pension earned under this plan prior to 1987 shall apply, and no pension earned under this plan prior to 1987 shall be reduced on account of the provisions of this section if it would have satisfied those limitations under that prior law.

**ARTICLE IX****Application, Benefit Payments and Claim Procedures****Section 1. Benefits payments generally.**

A. A participant who is eligible to receive benefits under this plan and makes application in accordance with the rules of this retirement plan shall be entitled upon retirement to receive the monthly benefits provided for the remainder of his life, subject to the provisions of this plan. Benefit payments shall be payable commencing with the first full calendar month in which the participant has fulfilled all the conditions for entitlement to benefits.

B. However, in no event shall deferral of commencement of benefits be allowed whereby it can be reasonably anticipated (except on account of premature death) that benefits will inure primarily to a beneficiary rather than to the employee.

C. Pension payment shall end with the payment for the month in which the death of the pensioner occurs, except as provided in accordance with a joint and survivor benefit.

D. Pension benefits shall be payable commencing with the month following the month in which the claimant has fulfilled all the conditions for entitlement to benefits, including the requirement of section 2 of the filing of an application and notice of retirement with the pension board. The first day of such first month is what is meant by the "effective date" of the pension.

An employee may elect, in writing filed with the pension board, to receive benefits first payable for a later month, provided that no such election may postpone the commencement of benefits to a date later than April 1 following the calendar year in which the employee will reach age 70½, or, if later, retires.

E. If a participant's beneficiary is not his surviving spouse, the payment of any benefits under the plan that become payable on account of the participant's death shall begin no later than one year from the date of death and shall be distributed over the life of the beneficiary (or a period not extending beyond the life expectancy of such beneficiary).

#### **Section 2. Filing an application for benefits.**

A participant must file an application for benefits under the plan no earlier than ninety (90) days and no later than thirty (30) days in advance of the date benefit payments are to commence. Such request may be in any form adequate to give reasonable notice to the pension board and shall set forth the basis of such application and shall authorize the pension board to conduct such examinations as may be necessary to facilitate the payment of any benefits to which the participant or beneficiary may be entitled under the plan.

#### **Section 3. Claims.**

Any payment to a participant, or beneficiary, or to their legal representatives, in accordance with the provisions of the plan, shall to the extent thereof be in full satisfaction of all claims hereunder against the pension board or the city, either of which may require such participant, beneficiary, or legal representative, as a condition precedent to such payment, to execute a receipt and release therefor in such form as shall be determined by the pension board or the city, as the case may be.

#### **Section 4. Fraud, embezzlement, theft, and dismissal for cause.**

In the event the employer shall receive prior to a participant's actual retirement date, written confession by such participant, or proof satisfactory to the pension board that such participant has committed or has been convicted of having committed a felony in connection with his duties or in the course of his employment with the city, or in connection with the plan, his participation in the plan shall be forthwith terminated; and any vested interest that such participant may have in the fund shall be forfeited.

#### **Section 5. Errors in computation of benefits.**

Any overpayments or underpayments from the plan to a retired participant or to a beneficiary caused by errors of computation shall be adjusted. Underpayments shall be made up from the plan.

## **ARTICLE X**

### **Pension Board**

#### **Section 1. Definitions and rules of construction.**

- A. "Board" shall mean the pension board created by this article.
- B. "Police and fire employees" shall mean the sworn personnel of the police and fire departments.
- C. "General employees" are personnel other than the sworn personnel of the police and fire departments.
- D. "Council" shall mean the governing authority of the City of Marietta which shall include the mayor and members of the council.
- E. In computing time required under this ordinance, time shall be computed without exclusion of Sundays and holidays.
- F. When used in this ordinance, the male gender shall include the female and neuter genders.

#### **Section 2. Creation.**

There is hereby created in the City of Marietta a pension board which shall consist of such members elected and appointed and having such duties, functions and powers as are hereinafter prescribed.

#### **Section 3. Functions and powers.**

The pension board shall have the following duties, functions and powers:

- A. In dealing with those persons participating or eligible to participate in any pension, retirement or disability program, the pension board shall:
  - 1. Handle distribution of all reports to participants.
  - 2. Handle arbitration between the city and the participants in all matters regarding the plan.
  - 3. Handle any notices of eligibility, benefits, available options, and any other notices required by this plan, contract or rules and regulations.
  - 4. Decide all questions and disputes on the interpretation and eligibility of persons for payment under any pension, retirement and disability ordinance of the City of Marietta.
- B. In performance of its duties, the pension board shall have the following powers:
  - 1. Recommend to the council the awarding of contract(s) for actuarial, and investment management and other administrative services as needed;
  - 2. Adopt rules and regulations providing procedures for the granting of pension, retirement and disability benefits and to approve payments for such persons entitled to payment;
  - 3. Adopt investment programs and procedures for funds held by any investment manager;
  - 4. Adopt all documents issued by the board;
  - 5. Review and recommend changes in the pension, retirement and disability program;
  - 6. When requested by the city manager, to advise the city manager on all pension, retirement, or disability payment matters; and
  - 7. To do all other things necessary and proper to carry out the duties required of it as the pension board of the City of Marietta.

**Section 4. Appeal and procedure.**

Any person dissatisfied with any decision of the pension board shall have the right to appeal the decision to the council by delivering to the city manager a written notice within ten (10) days of the decision complained of. The city manager shall cause the secretary of the pension board, within ten (10) days after such receipt, to provide to the clerk of the council all documents relied upon by the pension board in reaching its decision. The council shall decide the appeal within seventy-five (75) days of receipt of the appeal documents from the secretary of the pension board. Should the council fail to act within seventy-five (75) days of the decision of the pension board, the decision of the pension board shall be affirmed. In ruling on any appeal from the pension board, the decision of the pension board shall be presumed correct and based upon sufficient facts to sustain it.

**Section 5. Membership and operation of pension board.**

The pension board shall consist of nine (9) members elected from posts as follows:

- Post 1: City manager or his designee
- Post 2: Council member
- Post 3: Council member
- Post 4: General employee representative
- Post 5: General employee representative
- Post 6: General employee representative
- Post 7: General employee representative
- Post 8: Police department representative
- Post 9: Fire department representative

The police chief and fire chief shall be ex-officio members of the pension board and shall only vote in the absence of the police and fire representatives.

*Terms.* All members shall be elected as hereinafter provided in November and shall begin service on January 1 for a term of two (2) years.

*Selection of council, police, fire and general employee members:*

*Council representative.* Two (2) members of the council shall serve on the pension board. They shall be appointed by the mayor with consent of the council and shall serve for their duly elected term. If for some reason a duly appointed member cannot fulfill his or her term of the board, he or she shall be replaced by a member of the council appointed by the mayor with consent of the council.

*Police representative.* One member of the pension board [shall be] a representative of the police department. The senior officer in each of the ranks of police ~~assistant chief~~, police captain, police lieutenant, police sergeant, detective and police officer shall serve as a nominating committee for the police department. The highest ranking officer shall serve as chairman of the nominating committee.

*Fire representative.* One member of the pension board shall be a representative of the fire department. The senior officer in each of the ranks of assistant fire chief, company officer (fire captain or fire lieutenant), firefighter engineer, and firefighter shall serve as a nominating committee for the fire department. The highest ranking officer shall serve as a chairman of the nominating committee.

*Election of police and fire representatives.* The chairman of each respective nominating committee of police and fire shall call a meeting of the committee in November of the year immediately preceding the termination of the police and fire representatives on January 1 of the next year. The purpose of this meeting will be to nominate three (3) employees from each of the departments of fire and police. The names of the three (3) employees nominated shall be placed on a ballot with space provided for write-ins. Ballots shall be distributed by the nominating committees to all of the employees in the respective departments of police and fire. Ballots shall be

marked in secret and returned to the nominating committee the same day they are distributed. Each employee will vote for one (1) candidate and the candidate receiving a plurality of votes shall be the representative of their respective departments to the pension board. If for any reason duly elected representative of the police or fire departments cannot fulfill his or her office, the respective nominating committee shall designate a replacement for the duration of the vacated membership.

**General employees.** Four (4) members of the pension board shall be representatives of the general employees. A nominating committee consisting of the director of personnel, or a designee thereof; one person appointed by the director of public works, three (3) persons appointed by the blw board manager, one (1) of which cannot be in a supervisory position; two (2) persons appointed by the city manager, one (1) of which cannot be in a supervisory position; one person appointed by the director of parks and recreation, and one person appointed by the director of property management, shall nominate the candidate for membership on the pension board. The director of personnel, or the designee thereof, shall act as presiding officer of the nominating committee and call a meeting of the committee in the month of November in the year immediately preceding the end of the current members term. The purpose of this meeting shall be to nominate two (2) candidates for each expiring term of a member of the pension board represented by the general employees. The names of such employees nominated shall be placed on a ballot with space provided for write-ins. Ballots shall be distributed to all general employees. Ballots shall be marked in secret and returned to the nominating committee the same day they are distributed. Each employee will vote for as many candidates as there are representative seats of the general employees expiring on January 1. The candidates receiving the highest plurality votes for such seats shall be selected as the representatives of the general employees to the pension board. If for any reason for duly elected representatives of the general employees cannot fulfill his or her office, the nominating committee shall designate a replacement for the duration of vacated membership.

**Officers.** The pension board may elect such officers as it deems necessary. The board shall elect a chairman and a secretary.

The chairman shall preside at meetings of the board, cast a vote on any issue, call meetings as may be necessary, and do all things necessary to carry on the orderly affairs of the board. The chairman shall be selected by a majority vote of the board for a one-year term. The board shall designate, in writing, a secretary or other representative who shall have full authority to represent the board in all communications with any provider and the city's employees, including elected and appointed members of the governing authority. The secretary shall keep accurate minutes of all meetings of the board, recording those voting for and against any issue. Minutes shall be distributed to each member of the board, the council of the City of Marietta and shall be posted in a prominent place(s) within the City Government Complex.

**Legal assistance.** The city attorney or other attorney appointed by the governing authority shall furnish legal advice to the pension board on any issue before it upon which legal advice is sought.

**Meetings.** The pension board shall meet at least quarterly. Five (5) members of the board (including the chairman) shall constitute a quorum. The city manager or his designee shall have authority to approve pension, retirement and disability payments pending a meeting of the board.

**Rules of procedure.** The pension board shall have the authority to promulgate rules and regulations for its internal operation, as well as the approval of payments within its jurisdiction.

## **ARTICLE XI**

### **Amendment and Termination**

#### **Section 1. Amendment of the plan.**

The governing authority shall have the right at any time, and from time to time, to amend, in whole or in part, any or all of the provisions of the plan following the review and recommendation by the pension board; provided, however, that no such amendment shall:



- A. Reduce the accrued benefits of any participant or beneficiary, or
- B. Authorize or permit any part of the trust fund held by the provider to be diverted to purposes other than for the exclusive benefit of participants and their beneficiaries, and
- C. No amendment shall operate to derive any participant or beneficiary of any rights or benefits irrevocably vested in him under the plan prior to such amendment except that the governing authority may make any and all changes and modifications necessary to qualify the plan or to keep the plan qualified under the Internal Revenue Code and the regulations thereunder, or any amendment thereto.

**Section 2. Termination of the plan.**

A. The employer expects the plan to be continued indefinitely but, of necessity, reserves the right to terminate the plan and contributions thereunder at any time by action of the governing authority. Upon receipt of written notice from the governing authority of termination of the plan, the board shall prepare a list of all participants showing for each, as of the date of plan termination, the following:

- 1. For each retired participant and beneficiary receiving payment of benefits, the amount and terms of payment of such benefits.
- 2. For each terminated participant entitled to a deferred benefit, the amount, commencement date, and terms of payment of such benefit.
- 3. For each active participant the amount of his accrued benefit.

B. The board shall arrange for the liquidation of all assets held in the plan maintained in connection with the plan and shall prepare a statement of the liquidated value of such assets. The governing authority, in its sole discretion, may direct the board to purchase from an insurance company an annuity contract or contracts which provide the benefits to which each participant or beneficiary is entitled or to pay a lump sum to each participant or beneficiary, such lump sum amount to be [the] actuarial equivalent of the benefit to which such participant or beneficiary is entitled.

C. The board shall then deduct from the assets total remaining expenses incurred or to be incurred by the board on behalf of the plan. The board shall, except as otherwise provided in this section, then allocate the remaining assets for distribution in accordance with the classes listed below. The benefits of each class shall be satisfied before proceeding to the next class. If at any time the remaining plan assets would be insufficient to provide the accrued benefits for the class in question, the remaining assets would be applied on a pro rata basis within that class, and all subsequent classes would receive no benefit.

Class 1—Retired participants or beneficiaries who are receiving payments on the termination date.

Class 2—Participants delaying retirement.

Class 3—Participants eligible for early retirement.

Class 4—Former employees who are terminated participants.

Class 5—All other participants on a pro rata basis.

D. Upon distribution of the assets as specified above, the plan shall be regarded as terminated and no participant or beneficiary shall have any further rights or claim therein.

**ARTICLE XII**

**Miscellaneous**

**Section 1. Construction.**

- A. The plan shall be construed in accordance with the laws of the State of Georgia.
- B. In the event that any section, subsection, sentence, clause or phrase of this agreement shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the previously

existing provisions or the other section or section, subsections, sentences, clauses, or phrases of this agreement, which shall remain in full force and effect, as if the section, subsection, sentence, clause or phrase so declared or adjudicated invalid or unconstitutional were not originally a part hereof. The governing authority hereby declares that it would have passed the remaining parts of this agreement or retained the previously existing provisions if it had known that such part or parts hereof would be declared or adjudicated invalid or unconstitutional.

**Section 2. Non-alienation of benefits.**

None of the benefits, payments, proceeds, or distributions payable under the plan shall be subject to the claim of any creditor of any participant or to the claim of any creditor of any beneficiary hereunder, or to any legal process of levy or attachment by a creditor of any such participant or beneficiary; and no such benefits shall be in any manner liable for or subject to the debts, liabilities, engagements, or torts of any participant or beneficiary; and neither any such participant or beneficiary shall have any right to alienate, commute, anticipate, transfer, encumber, pledge or assign any of the benefits, payments, proceeds, or distributions under the plan. If any participant or beneficiary shall become bankrupt or attempt to anticipate, assign, or pledge any benefits, then such benefits shall, in the discretion of the pension board, cease, and in that event the pension board shall have authority to cause the same, or any part thereof, to be held or applied to or for the benefit of such member, his spouse, his children, or other dependents, or any of them, in such manner and in such proportion as the pension board may think proper.

**Section 3. Legally incompetent.**

Any participant or beneficiary receiving or claiming benefits under the plan shall be conclusively presumed to be mentally competent and of age until the pension board receives a written notice, in a form and manner acceptable to it, that such person is incompetent or a minor, and that a guardian or other person legally vested with the care of his estate has been appointed. In the event that the pension board finds that any person to whom a benefit is payable under the plan is unable to properly care for his affairs, or is a minor, then any payment due (unless a prior claim therefor shall have been made by a duly appointed legal representative) may be paid to the spouse, a child; a parent, or a brother or sister, or to any person deemed by the pension board to have incurred expense for such person otherwise entitled to payment. In the event a guardian of the estate of any person receiving or claiming benefits under the plan shall be appointed by a court of competent jurisdiction, payments shall be made to such guardian provided that proper proof of appointment is furnished in a form and manner suitable to the pension board. Any payment so made shall be a complete discharge of liability therefor under the plan.

**Section 4. Benefits supported only by trust fund.**

Any person having any claim under the plan will look solely to the assets of the trust fund for satisfaction. In no event will the employer, or any of its employees or agents, be liable in their individual capacities to any person whosoever, under the provisions of the plan.

**Section 5. Discrimination.**

The employer through the pension board, shall administer the plan in a uniform and consistent manner with respect to all participants and shall not permit discrimination in favor of supervisory or highly paid employees, elected or appointed members of the governing authority, the chief legal officer or any associate legal officer of the city, or any municipal officer elected or appointed to preside over the court of said city.

**Section 6. Limitation of liability; legal actions.**

A. It is expressly understood and agreed by each employee who becomes a participant hereunder that, except for its or their willful neglect or fraud, neither the employer, nor the pension board, shall be in any way subject to any suit or litigation, or to any legal liability, for any cause or reason or thing whatsoever, in connection with the plan or its operation, and each such participant hereby releases the employer, all its employees and agents, and the pension board, from any and all liability or obligation.

B. To any action or proceeding involving any rights under the plan or the proper administration thereof, the city and the pension board shall be the only necessary parties and no participant, or his beneficiary, or any other persons having or claiming to have an interest in the plan shall be entitled to any notice or process. Any final judgment which is not appealed or appealable that may be entered in any such action or proceeding shall be binding and conclusive on the parties hereto and all persons having or claiming to have an interest.

IN WITNESS WHEREOF, the City has caused the signatures of its authorized officers to be affixed this 11th day of February, 1987.

CITY OF MARIETTA, GEORGIA

/s/ Vicki Chastain  
Mayor

DATE: February 11, 1987

ATTEST:

/s/ Lillian C. Harris  
City Clerk